

UNITED STATES DEPARTMENT OF AGRICULTURE

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NATIONAL ORGANIC STANDARDS BOARD

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WEDNESDAY,
AUGUST 17, 2005

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The above-entitled matter convened at 8:00 a.m., in Oriental Ballroom C of the Mandarin Oriental Hotel, 1330 Maryland Avenue, S.W., Washington, D.C., James A. Riddle, Chairperson, presiding.

NOSB MEMBERS PRESENT:

JAMES RIDDLE	Chairperson
KEVIN R. O'RELL	Vice Chairperson
GOLDIE CAUGHLAN	Secretary
ANDREA CAROE	Member
DAVID CARTER	Member
GERALD DAVIS	Member
BEA E. JAMES	Member
HUBERT J. KARREMAN	Member
ROSALIE KOENIG	Member
MICHAEL P. LACY	Member
NANCY M. OSTIGUY	Member
GEORGE SIEMON	Member
JULIE S. WEISMAN	Member

NOP STAFF PRESENT:

KATHERINE BENHAM
MARK BRADLEY
KEITH JONES
ARTHUR NEAL
BARBARA C. ROBINSON

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A-G-E-N-D-A

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P-R-O-C-E-E-D-I-N-G-S

(8:09 a.m.)

CHAIRPERSON RIDDLE: If people could take their seats, it's time for public comment. I suppose I need to read the rules again.

As stated on the agenda and in the Federal Register notice, we'll start our day today with another round of public comments. And for your information, I have 17 people so far that have signed up to provide comments. The book is still out on the back table, if you so choose, if you haven't signed up yet.

Once again, if there are any new faces in the crowd that didn't hear the policy for public comments, I'll just briefly go through that before we start. In order to offer public comments, you must sign up in advance, and we'll follow the order that people have signed up.

If I call your name and you're not present, we'll go ahead and move on. But then I'll call your name at the end if you're there, but you'll bounce to the end if you're not present at the time

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1 when I call your name.

2 You'll have five minutes to speak. You
3 could carry a proxy and have an additional five. If
4 that is the case, please state that at the very
5 beginning, so that Goldie knows. And Goldie will be
6 keeping time and has a one-minute warning sign
7 somewhere that she'll hold up when you have one minute
8 left. But like I said on Monday, if you don't see
9 that sign, that's not her problem. It's just a
10 courtesy to you.

11 But when the timer rings, I'll allow you
12 to conclude your remarks, conclude that thought, if
13 members of the Board have questions, and there could
14 be additional remarks in response to questions.

15 And then, the final rule, individuals
16 providing public comment will refrain from any
17 personal attacks and remarks that otherwise impugn the
18 character of any individual, or company for that
19 matter. And as I said, we certainly don't mind
20 passion, but we don't want any personal attacks.

21 And the comments on Monday were just
22 excellent, a lot of passion and no offensive remarks,

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1 unless you mind a little swearing.

2 (Laughter.)

3 But it was not directed at anyone, just
4 the whole Board and everyone in general.

5 (Laughter.)

6 PARTICIPANT: Compliments and jokes are
7 accepted.

8 CHAIRPERSON RIDDLE: Yes. Well,
9 compliments could impugn on the character of an
10 individual as well. Anyway, we will go ahead and get
11 started, and I'll read the name of the person up, and
12 also the person on deck. So first up is Mark Kastel,
13 with Tony Azevedo on deck.

14 MR. KASTEL: Good morning. My name is
15 Mark Kastel, K-A-S-T-E-L, and I'm here today
16 representing the Cornucopia Institute based in
17 Cornucopia, Wisconsin.

18 Goldie, I have a proxy not from Henry
19 Perkins, but once again from Maury Johnson. So you're
20 safe, Jim.

21 (Laughter.)

22 Okay. First, the good news. We want to

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1 convey our thanks to the NOSB.

2 (Laughter.)

3 One person has to do this at every
4 meeting. I don't know why it had to be me.

5 First of all, thank you very much for
6 passing the guidance document on pasture that you did
7 yesterday in support of protecting the organic dairy
8 brand. And we appreciate the hard work, long hours,
9 and especially listening to the diverse stakeholders
10 in the issue.

11 We also want to convey our thanks to the
12 Livestock Committee for renewing your efforts to pass
13 a substantive rule change with teeth.

14 And now a note to the NOP. Get the gavel
15 ready. You asked the Board specifically to revisit
16 the pasture guidance document that was passed
17 unanimously in 2001, and went unaddressed by the
18 Department, languishing until this January when this
19 hot button issue again caught fire.

20 The dairy producers now ask you -- you
21 asked for this in January. We now ask you to please
22 post this document, send it to all certifiers on an

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1 immediate basis, without delay.

2 Okay. That's all the good news. Now,
3 let's talk about the bad news. There won't be any
4 flowery prose, and there won't be any swearing, and
5 there won't be any disrespect. But in the words of my
6 favorite philosopher, Rosanna Anna Danna --

7 (Laughter.)

8 -- I keep getting more and more cynical
9 all the time. I just can't keep up.

10 I don't understand. We have some really
11 good people working at the National Organic Program.
12 When you put this rule back, when you turned it back
13 to the Board and said you don't understand, I don't
14 understand. What part of access to pasture do you
15 folks not get? This has been a Board agenda item
16 since 2000.

17 The delay has allowed a number of
18 industrial farms, with allegedly almost exclusive
19 confinement conditions, to operate. Farmers have
20 spent thousands of dollars and hundreds of hours to
21 participate in this process and feel disrespected.

22 Sending the NOSB-endorsed rule on pasture

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1 back to this Board the way you did was just plain
2 wrong. The question was about regulatory intent. In
3 the 2001 document, which is on record, endorsed by
4 this Board, there was a paragraph entitled "Intent."
5 It's clear to everyone in this room what the intent of
6 that process was, I think.

7 You could have, optionally, talked to the
8 Board before you caught them flat-footed and us flat-
9 footed, and engaged in a dialogue if you thought there
10 was something deficient in the language that they
11 crafted. Better yet, from a timing standpoint, the
12 NOP could have crafted alternative language.

13 If you said, "Look, let's maintain the
14 spirit of what the Board crafted, but we think the
15 language isn't compatible with the regulations, or it
16 isn't in the right legalese," or whatever the excuses
17 were, I don't understand. But you could have crafted
18 that language and presented it back to the Board on
19 Monday and said, "Look, we think this is the good
20 wording. We'd like you to bless it. If you will pass
21 it today, we will then take it and post it on the
22 Federal Register."

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1 We're talking about years until
2 enforcement can take place at this point. We have to
3 revisit this at the Board. You folks have to review
4 this again. It has to be posted, comments, and then
5 once -- once it's passed, we're going to give farms
6 that aren't in compliance some amount of time to file
7 a new plan and come into compliance. We feel bad
8 about this.

9 If we're talking about a participatory
10 democratic system, which is what this organic movement
11 was founded on, this is disrespectful. And I want to
12 mention two other things that we're very concerned
13 about.

14 One is you folks solicited public comments
15 that were due in May. You took those into
16 consideration. We were appalled to find that about a
17 month after the deadline of May 20th passed, before
18 the Livestock Committee met, that about a third of the
19 comments had not been passed to the Board members or
20 posted on the NOP website.

21 This was not a casual dialogue with
22 stakeholders. This was a formal public comment period

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1 to benefit Board decisionmaking. That was just
2 unacceptable.

3 The fact that there were 11 institutional
4 comments that were listed by -- under the submitter's
5 name -- Cornucopia's was listed under my colleague, W.
6 Fantle's name. A lot of folks in the organic
7 community would not recognize M. Kastel or W. Fantle.

8 They might not recognize P. Odek as being the CEO of
9 Wild Oats.

10 And to create a dialogue, rank and file
11 farmers, consumers, and other NGOs would like to see
12 the comments and the thoughts of other learned people
13 in the industry. We need to do a better job on the
14 democratic dialogue.

15 And, finally, and it might seem trivial,
16 but this type of hotel is not conducive, and this
17 location in Washington, D.C. in August is not
18 conducive for public participation. Farmers who got
19 the great deal and paid \$30 a night for parking, paid
20 \$200 -- over \$200 a night for accommodations, we -- if
21 you didn't get in on that deal, it was over \$300 a
22 night. Breakfast, \$19.

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1 I talked to a farm couple yesterday who
2 said, "Well, we didn't want to pay \$19 for breakfast,
3 so we opted for the \$6 bagel." And the wife corrected
4 him and said, "No, honey, that was the \$7 bagel. You
5 went for the optional cream cheese."

6 (Laughter.)

7 Lunch, we wanted to have a farmer lunch on
8 Monday -- \$40 in our \$700 rented meeting room.
9 Listen, for a lot less in the aggregate, we could meet
10 again in LaCrosse, Wisconsin. We'd welcome you there.

11 Farmers could find \$50 hotel rooms, and, you know, \$8
12 breakfast, and we'd treat you guys.

13 So as un-PC as this might sound, we will
14 continue to bang the drum for democracy in this
15 process. We love the organic food and farming
16 movement. I mean, that's what -- the reason most of
17 us are enduring these long meetings, especially you
18 folks.

19 We love the energy and the collaborative
20 environment that this community was founded on, and we
21 refuse to give up this lucrative market that is now
22 created -- some people will call it an industry -- to

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1 those who just care about crap.

2 And we -- we want to -- we want to engage
3 with the Department on good governance. And I think
4 you folks as individuals -- I see you shaking your
5 head, Mark -- are good folks, and you want to also. I
6 don't get it. I don't know if it's coming from the
7 Secretary's office, where this, you know, block we
8 have is taking place.

9 But last year when those guidance
10 documents were issued by the NOP, without
11 collaborating with anyone, you guys got a very
12 critical, you know, set of instructions from then-
13 Secretary Veneman about collaborating. And then, we
14 have this rule come back without collaborating. So
15 you can issue edicts, or you can, you know, kind of
16 through neglect maybe make decisions, but we need to
17 have a dialogue.

18 So lastly, a message to the investors who
19 own the industrial firms.

20 Thank you, Goldie.

21 And this isn't the first time I've given
22 this message. The organic community has spoken. It's

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1 very, very clear what the consensus is in terms of
2 expecting dairy cattle to graze, not have access to
3 15,000 acres in the desert, not have, you know,
4 temporary confinement for 305 days worth of lactation.

5 None of this might carry the weight of law
6 today. But you know what? The regulations are in
7 force. Most dairy producers understand that. And if
8 you want to continue down the road of investing
9 millions in these confinement operations, you're doing
10 so at your risk and the risk of your investors. And,
11 by God, we still have a Securities and Exchange
12 Commission that requires disclosure, and you'd better
13 be telling those investors how off the path you are.

14 That's the end of my comments, and thanks
15 for enduring that, and thanks for not gaveling me
16 down.

17 (Laughter.)

18 CHAIRPERSON RIDDLE: Thanks, Mark, for
19 your pointed comments. I do have a comment myself. I
20 won't have a question, but I do just want to clarify.

21 On that pasture rule change draft, Keith had
22 contacted me and other members of the Livestock

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1 Committee that there were some problems with that
2 draft, and there was a dialogue occurring to try and
3 clarify our intent.

4 And I think -- you know, I don't know, and
5 I can't speak for Keith on this, but I know there's a
6 lot of other items on their work schedules. And it
7 certainly is possible that it could -- and you don't
8 need to respond, I'm not --

9 MR. KASTEL: Well, I --

10 CHAIRPERSON RIDDLE: Please do not.
11 Please do not. So there was a dialogue underway, and,
12 yes, it did catch us flat-footed as you say to have it
13 thrown back. And, yes, I would have appreciated --
14 and I know other members of the Board would have
15 appreciated -- kind of a conclusion to that dialogue
16 that we were engaged in, giving us a warning that it
17 was coming back.

18 But there was a dialogue under way, and I
19 guess I see more progress than we've ever had in the
20 feedback loop that's now occurring. And we've set a
21 precedent at this meeting that I hope can continue
22 into the future, where we hear a line-by-line report

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1 on our recommendations and how they're being received
2 by the program.

3 And as an Advisory Board, you know, we
4 can't expect to have every one of our recommendations
5 adopted, especially in a three-month time period. But
6 we do deserve to know where the program stands, and
7 that is exactly what's happening. And when it's
8 appropriate, it's a lot better to have those
9 recommendations given back to us for further work than
10 to just be rejected out of hand, or ignored and that
11 was the case for a number of years.

12 So you may get more cynical as time goes
13 on, but I see progress in very small steps. So it's
14 just a different perspective.

15 That's okay. We'll move on. I appreciate
16 your comments.

17 Tony Azevedo, and then Diane Goodman.

18 MR. AZEVEDO: I'm back.

19 (Laughter.)

20 That's Tony Azevedo, A-Z-E-V-E-D-O. I
21 have a proxy from some very good friends. My dairy is
22 in California. These dairy folks --

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1 CHAIRPERSON RIDDLE: So you'll have 10 --

2 MS. CAUGHLAN: Are you doing a 10-
3 minute --

4 MR. AZEVEDO: I hope not. I can wrap this
5 up really fast.

6 CHAIRPERSON RIDDLE: Okay. You do have a
7 proxy.

8 MR. AZEVEDO: Yes. Do you want it?

9 CHAIRPERSON RIDDLE: No, that's fine.

10 MR. SIEMON: Who is it?

11 MR. AZEVEDO: The proxy? It's Tom and
12 Sally Brown from Groton, New York. And they signed
13 up. So they're --

14 MS. CAUGHLAN: That's fine.

15 MR. AZEVEDO: I'll read this letter that
16 they had me read. They were here, but they had to
17 leave early.

18 "My husband and I have been farming for 27
19 years. We are the third generation farm and a few
20 years short of having a 100-year farm. If we had not
21 started farming organically, we would have been forced
22 out of business with nothing to show for 27 years of

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1 labor.

2 "We milk 100 cows. Farms of this size are
3 close to being an endangered species. With exception,
4 most will go out of business. We're losing more and
5 more of the rapidly-disappearing family farms on the
6 American landscape.

7 "Support of the pasture ruling will allow
8 many of these farms to continue. Also, as the average
9 age of the American farmer is 55, in 10 years there
10 will be a serious need for young farmers.

11 "Thank you very much."

12 The only thing I'd like to add to that is
13 obviously you folks probably caught the fact that I
14 was very disappointed with not accepting the rule. But
15 the guidance document was kind of a ray of light.

16 It's very important that we do have some
17 guidance in the west, because we have many farmers
18 that want to get into organics, and we want to bring
19 them in. And these are young farmers, and in the west
20 many of these young farmers suffer from an affliction
21 called productitis. And that's where you finish four
22 years of an agricultural college, which they basically

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1 teach you three things -- produce, produce, produce --
2 and now they'd like to get into organics, and they
3 need to know, you know, where they stand.

4 And by having some kind of rule, guidance
5 -- and the guidance document is going to help a lot.
6 But it -- prolonging this is going to make a larger
7 problem. And I know there's a possibility of having a
8 meeting in November.

9 And if the Livestock Committee could just
10 come up with a simple statement that the NOP could get
11 behind -- and when I say a "simple statement" it's
12 going to be kind of an ongoing work, but a statement,
13 zero pasture for a lactating cow does not constitute
14 organic.

15 Now, that's something that's simple. You
16 couple it up with the guidance document, and a lot of
17 these young farmers can get on their way. And it's
18 not completely clear, but it's something. But to
19 prolong this year after year is going to be very
20 damaging.

21 So I was hoping that possibly the NOSB
22 would consider, while we're putting this thing

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1 together, to get NOP to at least come up with a
2 statement that young people from the west in my area
3 realize, well, a statement like that, coupled up with
4 a guidance document, at least they have somewhere to
5 go and kind of formulate their dairy setups.

6 And these are young people that are coming
7 -- their parents are -- have large conventional farms,
8 and they want to do the right thing. They really
9 don't like what their parents are doing, and so they
10 want to do something different. They want to do
11 something new.

12 But all the institutions in the west have
13 not taught them anything about organics, which we know
14 that. So they're looking at -- at groups like this,
15 and at kind of old dogs like me, to tell them what to
16 do. And I don't -- I don't want to misguide them.

17 I don't want to say, "No, no, you've got
18 to do this, this, and this," which I do that a lot,
19 but, I mean, I don't want to do that and come out
20 wrong. You know? So perhaps you could consider in
21 November when you do meet to at least come out with a
22 statement that would kind of clarify, you know, zero

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1 pasture for a lactating cow does not constitute
2 organic. That's pretty clear. That's pretty clear.
3 And coupled up with the guidance document I think it
4 will work.

5 I'm not recommending that be the rule.
6 There's a lot more to it than that, but at least it
7 would give these young people an avenue to go down, so
8 they can continue with getting in agriculture, because
9 we are very short of organic milk. And we have a lot
10 of folks that want to get in it but are just, gee,
11 where are we going with this?

12 Other than any questions, I want to thank
13 everybody. Are there any questions?

14 CHAIRPERSON RIDDLE: I've got Hugh.

15 MR. KARREMAN: Tony, thank you for that
16 rule proposal, zero pasture does not constitute
17 organic production.

18 MR. AZEVEDO: Well, please don't look at
19 that as a rule.

20 MR. KARREMAN: Well --

21 MR. AZEVEDO: This is just something, you
22 know --

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1 MR. KARREMAN: Right. I wanted to ask,
2 though, what do you think about the work in progress
3 of what I had mentioned from the Livestock Committee
4 -- was it yesterday? -- about, you know, ruminant
5 animals over six months of age shall graze growing
6 pasture at least 120 days per year.

7 MR. AZEVEDO: Excellent. Excellent.

8 MR. KARREMAN: That's a positive
9 statement.

10 MR. AZEVEDO: Yes, but if --

11 MR. KARREMAN: I mean, we can go even --

12 MR. AZEVEDO: -- if somebody forgot to dot
13 the I, or the shall wasn't in the should, or -- do you
14 understand what I'm saying? If something goes awry,
15 we're set back another year and a half. Do you see
16 what I mean? We need something now that would -- that
17 would give us some kind of guidance that we can move
18 forward with all these farmers that want to get into
19 organic, and 99 percent of them are pure of heart.
20 They want to do it right.

21 But what you came up with, that's --
22 that's beautiful.

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1 MR. KARREMAN: Well, we'll try to work on
2 that.

3 CHAIRPERSON RIDDLE: Okay. Well, thanks,
4 Tony, and thanks for coming back.

5 All right. I have Diane Goodman, but then
6 it says time given to Steve Clarke. Steve is going to
7 take it. And then, next up will be Michael McGuffin.

8 MR. CLARKE: Good morning. Steve Clarke
9 with Florida Crystals Corporation. This is going to
10 be very brief.

11 This is my first NOSB meeting. It's been
12 interesting, and at the same time confusing and
13 illuminating, so I understand more. On behalf of
14 Florida Crystals, we agree very much with the mission
15 of NOSB. We find it rather odd to be rebuked for
16 suggesting another approach, some think because it's
17 not been done way before, especially in the issue of
18 the synthetic/non-synthetic confusion.

19 On this matter, I think at least the OTA
20 decision tree should be incorporated in the documents
21 from the NOSB. It's clear to me that there's some
22 lack of chemical expertise on the Board. When a

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1 cartoon guide to chemistry is proposed as a useful
2 source of information, I wonder whether a cartoon
3 guide to law or auditing should also be proposed.

4 It would probably be a conflict of
5 interest for me to offer my services, but I have no
6 doubt that good expertise is available.

7 Finally, and more seriously, there are
8 many operations abroad that supply organic products to
9 the USA. The major impact of these operations has
10 been in the field. Many farmers in South/Central
11 America have gone over to organic, and this is
12 wonderful.

13 But the confusion in the classification of
14 synthetic/non-synthetic could, in a minor processing
15 aid -- in the processing operations could jeopardize a
16 large amount of this. And I think we need to bear in
17 mind that what we are trying to do, from my
18 perspective, is to change the way agriculture works.
19 And this is being done in large part.

20 I was in an operation in Paraguay last
21 week, which has a very large organic operation with
22 many, many different farmers involved. But they are

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1 concerned that they will not be able to continue in
2 operation if this synthetic/non-synthetic issue is not
3 resolved.

4 Thank you.

5 CHAIRPERSON RIDDLE: Thanks, Steve.

6 MR. CLARKE: Okay.

7 CHAIRPERSON RIDDLE: Michael McGuffin, and
8 next up Mark Cox.

9 MR. MCGUFFIN: Good morning. My name is
10 Michael McGuffin. I'm with the American Herbal
11 Products Association, or AHPA. And I'm here today to
12 discuss exactly what I discussed last time I was here.

13 We need your support in clarifying that herbal
14 dietary supplements are clearly within the scope of
15 the NOP.

16 I want to review first what NOP has said
17 on this matter to date. In the Federal Register of
18 December 2000, they said, "Producers and handlers of
19 agricultural products used as ingredients in
20 cosmetics, body care products, and dietary supplements
21 could be certified under these regulations. The
22 ultimate labeling of cosmetics, body care products,

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1 and dietary supplements, however, is outside the scope
2 of these regulations."

3 Then, in May 2002, they reversed
4 themselves, stated that because these products contain
5 agricultural products, the producers and handlers of
6 such products are eligible to seek certification.
7 They reverted to their original position in April
8 2004, stating that dietary supplements are not
9 eligible to seek certification. They gave two
10 reasons.

11 These products are under the labeling and
12 regulatory jurisdiction of FDA, and OFPA does not
13 extend to non-agricultural products. And then, of
14 course, the most recent statement from NOP, just to
15 clarify everything, "Regarding dietary supplements, no
16 determination has been made at this time concerning
17 their labeling." Confused? Me, too. My members,
18 too, and my members want to sell organic dietary
19 supplements.

20 So I want to look at these two issues.
21 And, first, related to the fact that labeling and
22 regulation and dietary supplements are under the

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1 jurisdiction of FDA, this is also true of foods.

2 Here's a can of soup. It's labeled
3 according to FDA regulations. It's got these nutrient
4 content claims. If you don't make them right, they'll
5 seize your product. It says, "An excellent source of
6 fiber." If it doesn't have 20 percent fiber, your
7 product comes off the shelf, and it's got a USDA
8 organic seal.

9 This company figured out how to have its
10 product clearly under the jurisdiction of both FDA and
11 USDA.

12 Now, here's a peppermint spirit sold as a
13 dietary supplement, an herbal dietary supplement.
14 There's nothing in here except extracted peppermint,
15 certified organically grown, peppermint oil extracted
16 from that same peppermint, and organic alcohol.
17 Dietary supplement, can't put the word "organic" on
18 it, can't put the USDA seal.

19 Peppermint flavor, a food, exactly the
20 same ingredients. Actually, this one has alcohol,
21 this one has a scent -- or sunflower oil I think it
22 is, an organic vegetable oil. But there are organic

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1 peppermint with an organic carrier, supporting organic
2 agriculture. This one can be labeled as organic.
3 This one can be -- cannot be under USDA's/NOP's
4 restrictive reading -- the messages that we get every
5 other time.

6 It's absolutely clear that the intention
7 of OFPA is to allow both of these products, and it's a
8 red herring to say that the fact that FDA has
9 jurisdiction over the label somehow makes it
10 impossible for us. It's not unless the organic seal
11 is to be relegated only to the produce department,
12 which was not the intention of the Organic Foods
13 Production Act.

14 With regard to this idea that this is not
15 an agricultural commodity, which is the other point,
16 you know, here is what OFPA says. I'm going to quote
17 the definition of an agricultural product is "any
18 agricultural product -- commodity or product, whether
19 raw or processed, including commodity produced or
20 derived from livestock, marketed in the United States
21 for human or livestock consumption."

22 This is clearly an agricultural product.

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1 It's peppermint. It's extracted. It's processed.
2 And it is for human consumption. In fact, the law
3 requires us -- we're not allowed to sell dietary
4 supplements to rub on your arm. The only way we can
5 consume dietary supplements is by oral ingestion.

6 Again, I just think these are both excuses
7 to not get this done. I believe this is a simple
8 matter. And if I had another five minutes, I would
9 also discuss that our industry does support organic
10 labeling of cosmetic products and body care products,
11 but we've really tried to separate those issues,
12 because this one is simple.

13 We are putting it in our mouths. There is
14 no question as to whether this is consumed. I
15 understand -- is a body care product consumed? I can
16 argue that it is. I'm not really here today to take
17 on that issue.

18 I think this is a simple issue. It's not
19 complicated like synthetic versus natural. It's just
20 -- all I can ask you guys to do I think is to exert
21 whatever influence you can to convince NOP to take the
22 -- I think it's 30 minutes, maybe it's a half a day,

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1 to issue a very clear rule that these are clearly
2 allowed under NOP.

3 Thanks very much.

4 CHAIRPERSON RIDDLE: Thanks, Michael.

5 Gerry?

6 MR. DAVIS: It seems to me that part of
7 the problem why diet -- you know, the herbal
8 supplements, their intermingling with mineral
9 supplements causes the problem for them of
10 jurisdiction. Is it possible to separate herbal
11 supplements to bring them under the organic program
12 and to avoid -- I just wonder if that's the sticking
13 point, because they're all lumped together with the
14 minerals, which are not organic. They're not possible
15 to call those organic.

16 MR. MCGUFFIN: I'd love to respond. There
17 are -- you're correct. There are four or five
18 categories of ingredients. We would not propose that
19 if this company wanted to sell peppermint spirits and
20 a multivitamin, this would be the only one that they
21 could market as organic, because this is the only one
22 that's an agricultural product.

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1 So we're not proposing that the non-
2 agricultural dietary supplements would come under.
3 You know, clearly the first decision that would have
4 to be made is, yes or no, is it an agricultural
5 product? If it's from an herb, clearly it is. So
6 you're right, it's the herbal dietary supplements that
7 we're asking for.

8 But the fact that there are other dietary
9 supplements should not complicate the route to the
10 organic market for the herbal products.

11 Does that help, Gerald?

12 MR. DAVIS: Well, I guess my question is
13 directed more to the Board on is -- is this the
14 problem for solving their dilemma? Because we have in
15 -- as a general category, they're all lumped together
16 versus being distinctly separate -- you know, mineral
17 supplements versus herbal supplements.

18 CHAIRPERSON RIDDLE: Yes. Well, my
19 response would be you're right on there, that it --
20 and so is Michael, that our focus can only be the
21 agricultural products or the supplements and other
22 herbal products that are derived from agricultural

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1 ingredients.

2 As far as what the Board can do, I might
3 ask the Policy Committee to take this under advisement
4 as well as the comments we received Monday on the
5 personal care products, and consider recommendation or
6 further statement to the program at the very least.

7 MR. MCGUFFIN: And we did in our -- as
8 part of our last comments, we provided you with a
9 markup, I think a redline, of your earlier draft on
10 this issue. And I can redistribute that if it's at
11 all helpful, because we think that we've got some
12 pretty close language in that document that you are
13 already working on, Dave.

14 CHAIRPERSON RIDDLE: Any further -- yes,
15 Hugh?

16 MR. KARREMAN: I know in the herbal
17 tinctures and extracts I get from my herbal supplier
18 for working with livestock he has been told by the FDA
19 he needs to put on those -- like on the can there. So
20 wouldn't even very small print -- couldn't you get
21 that kind of information like is on the can onto that
22 little tincture bottle? And then cross both --

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1 MR. MCGUFFIN: Yes.

2 MR. KARREMAN: -- bridge both things.

3 MR. MCGUFFIN: Yes, right.

4 MR. KARREMAN: Okay. So --

5 MR. MCGUFFIN: And that's what my members
6 want to do.

7 MR. KARREMAN: Right.

8 MR. MCGUFFIN: They want to put all of the
9 information required by FDA --

10 MR. KARREMAN: Right.

11 MR. MCGUFFIN: -- and the USDA --

12 MR. KARREMAN: Exactly. That's --

13 MR. MCGUFFIN: Yes.

14 CHAIRPERSON RIDDLE: Bea?

15 MS. JAMES: I understand exactly what
16 you're saying. But I -- I really think that even
17 though you have two products there that both come from
18 a plant source and agricultural source, one is used as
19 a food ingredient, and the other one is used for
20 medicinal purposes. Products that are medicinal are
21 regulated by the FDA.

22 MR. MCGUFFIN: Right, as are products that

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1 are food regulated by the Food and Drug
2 Administration.

3 MS. JAMES: Right, right.

4 MR. MCGUFFIN: And, in fact, if I make a
5 medicinal claim for this, it becomes a drug. It's
6 actually not medicinal. It's a supplement, which is
7 federally defined under foods. This is a food. Even
8 though it's a food supplement, it is federally defined
9 as a food and not as a drug.

10 MS. JAMES: That's under DSHEA.

11 MR. MCGUFFIN: Under the Dietary
12 Supplement Health and Education Act. You need -- I
13 mean, I can get you a copy of that if it helps.
14 There's some additional --

15 MS. JAMES: No. No, I understand what
16 you're saying.

17 MR. MCGUFFIN: -- information.

18 MS. JAMES: I'm just --

19 MR. MCGUFFIN: The fact that you can make
20 a claim -- you're right, we can make a claim. So can
21 this SOOP. It made a claim. It's a different kind of
22 claim. Although we can -- we can pretty much make the

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1 same claims anymore. They can make a -- we can both
2 make health claims. We're the only ones that can make
3 what's called a structure/function claim.

4 But we can't make a medicinal claim,
5 although I could argue that there's nothing that says
6 that a drug from organic herbs shouldn't be able to be
7 labeled as organic. But I'm not here to argue that
8 today. I'll come back. I'll come back --

9 CHAIRPERSON RIDDLE: I'm glad to hear
10 that, Michael.

11 (Laughter.)

12 Thanks for your input --

13 MR. MCGUFFIN: Appreciate it.

14 CHAIRPERSON RIDDLE: -- and your patience
15 in coming back and working with us.

16 MR. MCGUFFIN: Well, I know you guys have
17 a lot going on. My main point probably is I think
18 this one is simple. It's not weeks and months and
19 years, and we'd love to get it done. Thanks a lot.

20 CHAIRPERSON RIDDLE: Thank you. And we've
21 thought other things are simple before.

22 (Laughter.)

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1 MR. CARTER: Simple for the NOSB is weeks
2 and months and years.

3 (Laughter.)

4 CHAIRPERSON RIDDLE: We have Mark -- Mark
5 Cox. Is Mark here? It says Mark. No? Okay.
6 Christine Cox? Neither one. Okay. Well, I'll call
7 their names again at the end.

8 Is Urvashi Rangan here? Okay. Take your
9 time, since I didn't give you any warning. Next up
10 will be Mark Retzloff. Is Mark here? So if Mark is
11 not here, then Kathy Seus would be next, just to try
12 and give you some warning.

13 Okay. Urvashi, thanks.

14 MS. RANGAN: Okay. Good morning. I also
15 want to -- my name is Urvashi Rangan. I'm an
16 environmental health scientist with Consumers Union,
17 publisher of Consumer Reports. I want to thank this
18 Board for the painful efforts of getting through the
19 synthetics document yesterday and the guidance.

20 I would disagree with some previous
21 speakers. I think you all have a lot of -- you've
22 spent a lot of time and effort in trying to understand

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1 Chemistry 101, and it is Chemistry 101. This isn't
2 advanced doctoral chemistry. This is Chemistry 101,
3 and it takes a little time to get familiar with the
4 terms, but that's all that's really required to figure
5 out the differences. So we really appreciate your
6 time and your effort, and we strongly support your
7 actions yesterday.

8 I'm going to talk today a little bit about
9 looking forward, and I want to talk about labeling in
10 general and a little bit about fish, because consumers
11 are awfully confused out there. And while we
12 appreciate the fact that the NOP has reconsidered how
13 certain products are regulated in terms of do they
14 have standards, don't they, do the standards fit under
15 another category, don't they, and those things are
16 perfectly legitimate in terms of fine-tuning this
17 program and making sure that, you know, aquaculture
18 really does need its own standards. It's not a cow.
19 Fish are not cows.

20 And that we do need the time to create
21 those standards, and we very much appreciate the fact
22 that task forces have been set up to do that.

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1 Unfortunately, there's an awful lot of
2 organic fish product that's on the market right now.
3 And while we talk about the USDA seal and surmise that
4 that's the only thing consumers are looking for, that
5 is not the only thing consumers are looking for.

6 They look at the front of the package, and
7 if they see the word "organic" on it they assume it is
8 as credible as other organic products that they are
9 buying on the market. And it has been a very tedious
10 task for us at Consumers Union to go through and
11 constantly reexplain, no, organic fish that you're
12 seeing on the market right now does not meet the same
13 standards. It is not the same thing.

14 We really urge this Board and the NOP to
15 reconsider whether or not that label should stay on
16 organic fish right now while the standards are being
17 made. It really does a disservice to consumers. It
18 does a disservice to the industries that -- or the
19 companies that are trying to do a good job and coming
20 up with standards on their own.

21 Recently, we -- or I should say at the
22 last meeting, I think last summer, the NOP stated to

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1 us that no USDA seal would be found on an organic fish
2 product. And yet a couple of months ago it came to
3 our attention that certain companies were using the
4 USDA organic seal on their fish and claiming to be the
5 first USDA-certified company to be certified to
6 livestock standards.

7 That was such in contradiction to what we
8 were told at the last meeting, so Consumers Union
9 called the Public Affairs Office at USDA and asked
10 repeatedly and reexplained and sent the news stories,
11 and we never got an adequate answer about why this was
12 being allowed and whether it was going to be stopped.

13 We were told we would hear from the
14 Compliance Office. We never did hear from the
15 Compliance Office. Who we heard from was a reporter
16 from Business Week Television who took this up, went
17 to the USDA, interviewed them, and then finally we
18 were told by that reporter that USDA told these
19 companies to stop doing it.

20 And yet up until just yesterday there are
21 materials on the website that say these companies are
22 certified to USDA livestock standards. This is

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1 awfully confusing, and we really would appreciate it
2 if we could just ban the use of the organic label on
3 these fish and seafood products until the standards
4 are created.

5 And I very much urge those of you who are
6 on the agriculture task forces to please strongly
7 consider that as one of your main missions, and please
8 to consider contaminant issues like mercury and PCBs.

9 We do not want consumers in California, for example,
10 who will see a Prop-65 label indicating that there's a
11 carcinogen in their fish to also have an organic label
12 slapped on top of that. Consumers will not be able to
13 make sense of what that means.

14 Thank you.

15 CHAIRPERSON RIDDLE: Thanks, Urvashi.

16 Okay. Is Mark Kastel -- I mean, not Mark
17 Kastel, Mark Retzloff --

18 (Laughter.)

19 It's like confusing Arthur --

20 (Laughter.)

21 Okay. I don't see Mark Retzloff in the
22 audience. So Kathy Seus, and then Joe Mendelson.

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1 MS. SEUS: My name is Kathy Seus. I'm
2 here on behalf of Food Animal Concerns Trust, FACT, in
3 Chicago, Illinois. I just want to give a little bit
4 of background on how I got involved in this whole
5 organic process. My first NOSB meeting was the
6 Chicago meeting a couple of years ago. And for anyone
7 that attended that meeting, I think we would all agree
8 that it was lively, to say the least.

9 And it became fairly apparent during that
10 meeting that there was truly a lack of cooperation and
11 collaboration between the NOP and the NOSB. In the
12 past couple of years, it does seem like we've sort of
13 taken a step forward, that in some respects there has
14 been a little bit more cooperation.

15 However, what happened on Monday with the
16 rejection -- the way the rejection of the pasture
17 suggestions were handled, sort of felt like two steps
18 back. That said, I'm going to acknowledge Chairman
19 Riddle's comments earlier today that he does feel that
20 there's a spirit of cooperation, a collaboration,
21 that's -- you know, the precedent is being set today.
22 I'd just like to say -- I mean, I'm going to put the

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1 past behind and let's say let's just move forward on
2 that, and let's keep that going.

3 We'd like to see these regulation changes
4 on pasture move forward. I'm asking that the NOP and
5 the NOSB continue this precedent that's been set of
6 collaboration and cooperation and move forward on this
7 thing. I think it's possible, and I'm going to sort
8 of take a positive spin on this and -- and say that
9 that happens, and it happens quickly.

10 I didn't say this earlier, I apologize. I
11 also have a proxy from Kathie Arnold, and I'd like to
12 read her comments.

13 "I do want to express my disappointment
14 that the pasture rule changes have been sent back to
15 the NOSB. I retain optimism that this is truly due to
16 something lacking rather than due to pressure applied
17 to the NOP by commercial and/or political interests.
18 I retain hope that the NOP has or will clearly
19 articulate to the Livestock Committee what specifics
20 were missing in these NOSB-approved rule changes, so
21 that the process continues as expeditiously as
22 possible.

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1 "Thanks to the Livestock Committee for
2 working on modifications already. And I encourage
3 posting of a draft rule change as soon as possible to
4 allow public comment, to enable a vote at the fall
5 NOSB meeting, if it happens.

6 "Great thanks to the NOSB for passing the
7 pasture guidance document yesterday. I appreciate all
8 the hard work involved, and the willingness to
9 incorporate public comment. I ask that the NOP accept
10 and post this guidance document as soon as possible."

11 That's it.

12 CHAIRPERSON RIDDLE: Thanks, Kathy. And
13 just to clarify once again that the NOP did not reject
14 our pasture rule change recommendation. They referred
15 it back to us for further work. There's a significant
16 difference in the two. And referring back to us is
17 part of a collaboration. They need something that
18 really works for them, and that can be enforceable and
19 can move forward in the rule-writing process with
20 sufficient justification.

21 So please have patience, and we all just
22 need to stay focused on that.

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1 Any other -- okay. Moving on, we have Joe
2 Mendelson, and next up Liana Hoodes.

3 MR. MENDELSON: Good morning. I'm Joe
4 Mendelson. I'm the Legal Director for the Center for
5 Food Safety. I want to thank the Board and the
6 program for all their hard work over the last several
7 days.

8 Two brief comments. The first is more of
9 a response to some comments that were made earlier in
10 the week, and that to paraphrase those comments that
11 the goal of the Board and the program should be to --
12 an almost undue speed in -- in a promotion sense you
13 get to a point of 20 percent acreage for organic
14 production, and we shall be striving to that, and
15 that's the main goal.

16 And certainly the Center for Food Safety
17 wants to see as much acreage as possible under organic
18 production. But I just want to remind the Board and
19 others that the goal, and specifically the legislative
20 history of the Board, is to set standards, and to make
21 sure when we get to 20 percent there's a road map on
22 how to get there.

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1 You know, percentage of acreage doesn't
2 mean anything if the standards don't mean anything.
3 And to suggest that folks in certain communities who
4 are trying to make sure that the standards maintain
5 what they feel their constituents -- consumers and
6 environmental advocates -- have substance that those
7 constituencies want to see doesn't mean we're trying
8 to hinder in any way the expansion of organic.

9 On the contrary, we want to make sure that
10 organic expands, but it also means something because
11 that's the goal is to have organic mean something.

12 The second is to follow up on the comments
13 of Urvashi Rangan from Consumers Union on the
14 enforcement issue. I believe I commented a couple of
15 Board meetings ago, and still am working on a paper I
16 promised the Board, but we do have this -- this issue
17 of enforcement that I don't think is resolved.

18 I mean, there was some suggestion this
19 week that folks dealing with personal care products,
20 while I'm not making any comment on whether they
21 should be within the program or not -- and I certainly
22 sympathize with some of the folks who had earlier

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1 testimony on that -- but the idea was that if the
2 personal care products aren't under the scope of the
3 program, they can still go to an organic certifier to
4 get certified, they just can't have the USDA seal.

5 And I think we -- if that's the road we
6 want to go down, that folks can use the term "organic"
7 without representation or without standards through
8 this process for agricultural products. We're
9 creating a two-tiered system. And as Urvashi
10 mentioned, it is happening in fish, and it would
11 happen in -- in personal care products.

12 And that is that people are out claiming
13 that they're organic, implying that they meet USDA
14 standards, whether they use the USDA seal or not,
15 when, in fact, both the program and this Board have
16 not made substantive findings as to what those
17 standards are.

18 And it's very clear that the -- the law,
19 6519(a), says, "Any person who knowingly sells or
20 labels a product as organic, not with a USDA seal,
21 except in accordance with this chapter, shall be
22 subject to civil penalties not more than \$10,000."

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1 I don't think we want to endorse or create
2 a system by which people are out there using the term
3 "organic" when we don't have substantive standards.
4 And that term, as Urvashi mentioned, does imply,
5 whether the seal or not, to consumers that it's
6 meeting some type of USDA endorsement.

7 That may be very unfortunate to people
8 who, if the program and the Board decide that personal
9 care is not within the scope -- and I can sympathize
10 with that -- but the fact of the matter is to -- to
11 have -- the solution isn't to have product out there
12 labeled organic, and have consumers misled on -- on --
13 and I would hope we would try and come to some
14 resolution.

15 I don't think we're -- we've really gotten
16 -- we've talked about scope, but we don't talk about
17 how the program is enforcing. And I don't think
18 enforcement of just pulling the seal is enough. I
19 think it's the term "organic" that really is the heart
20 of the matter.

21 Thank you.

22 CHAIRPERSON RIDDLE: Thanks, Joe.

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1 Okay. Liana Hoodes, and Lisa Hummon.

2 MS. HOODES: Good morning. I'm Liana
3 Hoodes. I'm going to read comments verbatim from
4 Michael Sligh.

5 MS. CAUGHLAN: Do you have a proxy? I
6 mean, are you taking five and five?

7 MS. HOODES: No.

8 MS. CAUGHLAN: That's fine.

9 MS. HOODES: No. Michael Sligh is -- "I
10 am Michael Sligh" --

11 (Laughter.)

12 -- "founding Chair of this Board, Co-Chair
13 of the National Campaign for Sustainable Agriculture
14 Organic Committee, and Policy Director for Rural
15 Advancement Foundation International USA.

16 "Please let me start by thanking all of
17 you for your perseverance and continued dedication to
18 the advancement of organic agriculture. We may not
19 always agree on everything, but the fact that we are
20 all still here speaks volumes of our shared
21 commitment.

22 "I send special thanks to the upcoming

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1 NOSB retirees. I know well of your sacrifice, and
2 welcome and many thanks to the new Board members for
3 your willingness to answer the call to serve organic
4 agriculture. I look forward to getting to know each
5 of you better.

6 "I wish to use my time to strongly support
7 several key points. First, I strongly support the
8 inclusion of biodiversity language into the guidance
9 template for certifiers. This is an essential element
10 of organic agriculture and should be much more
11 strongly visible in our verification documents.

12 "On a related point concerning how strong
13 -- how to strongly require organic seeds, I again
14 remind the Board that since this program has a global
15 reach, and especially because of this, it can have
16 unintended impacts on program participants in the
17 global centers of biodiversity.

18 "We must be very aware that forcing this
19 requirement too quickly, or so strictly, will have
20 extremely negative impacts on local seed biodiversity
21 and farmer choices. Locally-adapted varieties, which
22 have been proven winners over the centuries, must

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1 always be supported over imported seeds, organic or
2 not, which can have a narrower genetic base, be an
3 inappropriate variety, and/or be of unproven local
4 adaptability.

5 "I caution you about this and offer
6 support in the development of appropriate steps to
7 support the growth of organic seeds without
8 undermining already vulnerable locally-adapted seed
9 biodiversity.

10 "Secondly, I am very disappointed that the
11 very solid work by family-sized organic dairy farmers
12 to clarify the pasture guidance requirements has been
13 delayed. A lack of greater specificity is critically
14 needed to guide certifiers to make consistent
15 decisions and to avoid loss of consumer confidence,
16 not to mention ensuring the welfare and natural
17 behavioral needs of the animals.

18 "However, we cannot have it both ways. We
19 have asked, and the Inspector General of USDA has
20 required, the NOP to demonstrate cooperation with the
21 NOSB and to provide responses to the many previously
22 unanswered NOSB recommendations. They have actually

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1 responded to this issue.

2 "To expedite this critical issue, we need
3 to request that NOP/USDA response be much more
4 specific and that it be put in writing if further
5 delayed. My suggestion is for you and the NOP to roll
6 up your sleeves and fix this matter at this meeting.
7 Failing this, I strongly urge an additional meeting
8 before the end of this year, and for the meeting to be
9 held out in the dairy country to facilitate greater
10 farmer access to this timely matter.

11 "Please do not leave this matter hanging.
12 It has very large implications. Some additional
13 specifics are better than the current void.

14 "Finally, I rise to make critical comments
15 regarding the sunset provisions. It is very important
16 that NOSB exercise your full statutory
17 responsibilities. You were very consciously awarded
18 these responsibilities as a duly-appointed citizen
19 board. Your actions should be consistent with and
20 provide solid continuity from past NOSB decisions. It
21 must also be rigorous and fully transparent.

22 "When the founding Board voted on the

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1 original list of materials prior to the organic rule,
2 we based our vote on several very important caveats.
3 One, the sunset process meant that all materials were
4 required to be rereviewed within the five-year
5 requirements. Many of the votes were very close,
6 controversial, and lacked clear consensus. Many of
7 the materials would not be on the list at all if this
8 caveat had not been clearly understood.

9 "Two, in fact, we also understood that if
10 the material was not rereviewed within this timeframe
11 it automatically went off the list. This is very
12 important.

13 "Three, synthetics in processed foods
14 labeled as organic were clearly understood by many on
15 the NOSB to be not allowed by OFPA. We remanded USDA
16 that they must be resolved in the rulemaking process,
17 or that those materials voted as allowed synthetics
18 for processed foods would be in violation of OFPA.
19 Our votes were made based on that understanding.

20 "Four, many materials votes required
21 additional caveats, such as accelerated reviewed,
22 annotations, and narrow use requirements, to win Board

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1 support, et al., especially regarding the use of
2 synthetics in processed foods. It is incumbent upon
3 this Board to ensure that the sunset process adhere to
4 the legislative intent, the law, honors the original
5 caveats, and does not set expedient precedents that
6 will allow for unwarranted discretion and special
7 interests to hold sway over organic integrity.

8 "Please feel free to contact me if I can
9 be of additional help, clarification, or support. And
10 thank you for your -- for this opportunity and for
11 your continued dedication to organic."

12 Thanks.

13 CHAIRPERSON RIDDLE: Thanks, Liana and
14 Michael. Oh, a question?

15 MR. DAVIS: Concerning Michael's comments,
16 there was a lot of meat there that -- how do I get a
17 copy of that, for example?

18 MS. HOODES: I actually have one copy, and
19 I can probably make more here, too, so --

20 CHAIRPERSON RIDDLE: If you could make
21 more to distribute, that would be great. And make
22 sure that Katherine has a copy as well.

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1 MS. HOODES: Okay. Very good.

2 CHAIRPERSON RIDDLE: All right. Thanks
3 Gerry.

4 Okay. It's Lisa Hummon, and then Brian
5 Baker.

6 MS. HUMMON: Good morning. I'm Lisa
7 Hummon with Defenders of Wildlife. And that's spelled
8 H-U-M-M-O-N.

9 Defenders of Wildlife is a national
10 501(c)(3) nonprofit conservation organization with
11 over 490,000 members dedicated to the protection of
12 native wild animals and plants in their natural
13 communities. Defenders has been actively involved in
14 supporting and strengthening sustainable agriculture
15 and conservation working landscapes for more than 20
16 years.

17 We would like to thank the Board for
18 passing the biodiversity amendments to the organic
19 system plan. We helped provide input in the
20 development of the amendments, and we would like to
21 thank the Wild Farm Alliance and ATTRA for their
22 leadership.

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1 We believe that working lands can and are
2 doing much to conserve biodiversity. With 40 percent
3 of plant and animal species listed as threatened or
4 endangered, found only on private and state lands, as
5 well as 60 percent of at-risk species, it is extremely
6 important that we continue to encourage biodiversity
7 conservation and agricultural landscapes.

8 By eliminating the use of harmful
9 pesticides and promoting ecologically sound practices,
10 organic agriculture has great benefits for
11 biodiversity and at-risk species. And by adopting
12 these biodiversity amendments to the organic system
13 plan, the organic label will clearly define what it
14 means to conserve biodiversity on an organic farm or
15 ranch, as well as the surrounding landscape.

16 By rewarding these ecologically beneficial
17 practices, the organic program will further implement
18 the goals of fish and wildlife and habitat
19 conservation, sustaining rural communities and
20 providing a trusted label for consumers.

21 We encourage the NOSB and the NOP to
22 implement this revised OSP by providing it to

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1 certifying agencies, putting it on appropriate
2 websites, and any other means you can find possible.
3 And Defenders will do what we can to get the word out
4 about these as well.

5 We would also like to thank the Board for
6 approving the guidance for organic pasture
7 requirements. This is a good step in the right
8 direction to ensure that consumers have confidence
9 that the organic milk and other products that they buy
10 have been produced in an environmentally sustainable
11 manner, and that farmers who are using these good
12 practices and being good stewards of the land are
13 rewarded properly and fairly in the marketplace.

14 This will also help protect the food
15 systems that provide health and nutrition benefits to
16 humans and ecological benefits to wildlife.

17 We encourage the NOSB and the NOP to
18 continue to work together to revise the proposed rule
19 change, post it for public comment, and bring it to a
20 vote at the next NOSB meeting.

21 Thank you.

22 CHAIRPERSON RIDDLE: Thanks, Lisa.

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1 Brian Baker, and then Joe Smillie.

2 MR. BAKER: Brian Baker, Research
3 Director, Organic Materials Review Institute. And I'd
4 like to start by recognizing and honoring your
5 practical expertise and your experience and all of the
6 work that you've done.

7 I really also want to specifically thank
8 you for passing the synthetic/non-synthetic
9 clarification recommendation. And I think that having
10 this clear guidance will help us move ahead with our
11 mission to independently and transparently review
12 inputs for use in organic production and processing
13 and handling.

14 When I came in the room yesterday while
15 you were discussing it -- I apologize, I was out of
16 the room, I came in late, and I sat down next to Pat
17 Kane and I asked her how long the discussion was going
18 on. She said about 20 years.

19 (Laughter.)

20 But, really, it's been more -- it's been
21 over 30. Our -- we've been dealing with this question
22 of synthetic and non-synthetic since the passage of

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1 the California Organic Foods Act in 1979, or the first
2 Rodale standards in 1972. It's not like we just came
3 up with this yesterday.

4 And we've been grappling with these
5 issues. They're difficult. But I think it's not
6 rocket science, and, you know, it's -- it is -- there
7 are some pretty fundamental guideposts that we have.

8 We're also not arguing about the vast
9 majority of things out there. The vast majority of
10 inputs used in agriculture and in processing are
11 prohibited. There's no question about that. There
12 are only a few things that are allowed in organic, and
13 it's those gray areas where we're having all of the
14 discussion, really.

15 So we've had experts on the NOSB and on
16 the Technical Advisory Panel look this over, and, you
17 know, reasonable people can disagree. But the
18 disagreements, if you look at the record, are very
19 few. And, you know, yes, they're contentious, they're
20 passionately argued, but we're really only talking
21 about a few things where we have deep-seated
22 disagreements.

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1 OMRI wants to work with all parties and
2 the public, with the NOP and the NOSB, to help bring
3 about an understanding, and to have a dialogue on
4 these -- on these issues where we have -- have worked
5 with decisionmaking, looking at different
6 formulations, different mixes, and we realize that
7 synthetic reactions don't always take place when you
8 put a bunch of things in a bottle and shake it up.

9 But sometimes they do, and, you know,
10 these side reactions do occur, you know, and to
11 understand, you know, these -- these reactions run
12 downhill, you know, and there are certain conditions
13 where they'll take place, certain conditions where
14 they won't. We need to have -- we need to look at
15 that and have a better understanding.

16 The other thing is that all substances are
17 active. Everything out there is used for a purpose.
18 There are a few exceptions that are in federal
19 statutes, such as EPA registered pesticides and FDA
20 registered animal drugs. Those are specific
21 exceptions. But everything put in a fertilizer bag,
22 or everything put in a vitamin pack, is in there for a

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1 reason.

2 So at the end of the day, you know,
3 organic is a labeling law. And, you know, it's
4 looking at the different ingredients that are on the
5 bag or on the box, and I want to throw in as far as
6 scope goes, also don't forget fertilizer and the way
7 fertilizer inputs are labeled.

8 But, you know, it's our take that if it's
9 on the -- if it's on the bag label, and it's
10 synthetic, and it's not on the national list, it's not
11 allowed. And I'd like to have, you know, clarity on
12 that, because that's not -- if that's not going to be
13 followed, that's a huge change from what we've been
14 doing for the past 30 years or so.

15 And one minute left, I'd like to switch to
16 the other thing I'd like to talk about. I talked
17 about pathogens on Monday. I'd like to talk about
18 another contaminant, and that's heavy metals. And,
19 you know, we've been -- we also published a study on
20 heavy metals found in organic inputs, and we are
21 suggesting -- we are hoping that the NOSB will work
22 with the NOP to clarify what it means to not

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1 contribute to the contamination of crops, livestock --
2 crops, soil, and water, with heavy metals.

3 And we're looking at a no net degradation
4 standard. We believe that this is the most protective
5 and precautionary way to -- to deal with it. We also
6 recognize that arsenic and lead are on the prohibited
7 non-synthetics list, and we'd like to know what
8 thresholds of arsenic and lead are acceptable.

9 Is that time?

10 CHAIRPERSON RIDDLE: That is time.

11 MR. BAKER: Okay.

12 CHAIRPERSON RIDDLE: And I think you
13 actually finished your -- there's a question. Go
14 ahead. I'm sorry. Yes. I had looked there first,
15 but --

16 PARTICIPANT: A blind spot.

17 CHAIRPERSON RIDDLE: Yes, right.

18 MS. OSTIGUY: Brian, the Crops Committee
19 is looking at contaminants in fertilizer specifically
20 at the moment. Could I get a copy of that report? Is
21 it done?

22 MR. BAKER: Yes, you can. I don't have it

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1 with me. It is on our website.

2 MS. OSTIGUY: Okay.

3 MR. BAKER: It's on the Advisory Council
4 section. I can send you the link, or I can send
5 you --

6 MS. OSTIGUY: That would be great.

7 MR. BAKER: -- a hard copy.

8 MS. OSTIGUY: Just send me a link. That
9 would be great.

10 MR. BAKER: Okay.

11 CHAIRPERSON RIDDLE: Gerry?

12 MR. DAVIS: Is George still next or --

13 CHAIRPERSON RIDDLE: No, he was just
14 getting my attention.

15 MR. DAVIS: A comment about no net
16 degradation principle for heavy metals in the
17 environment, and so forth. Elaborate on that a little
18 bit, please.

19 MR. BAKER: Well, you don't want the
20 levels to trend up over time. So a no net degradation
21 would mean if we've got, say, 10 parts per million of
22 arsenic in the soil today, we want it to be no more

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1 than 10 parts per million, you know, 10 years, 20
2 years, 100 years from now. And if we have -- if it
3 goes from 10 to 20, we have degradation.

4 MR. DAVIS: So that would be -- going from
5 10 to 20 would be based on a site-specific level, or
6 are you talking about an average for the country or --

7 MR. BAKER: That's a very good point, and
8 I would -- the suggestion is to make it an average for
9 the country, a national average, because what you have
10 if you make it site-specific is that the more polluted
11 areas receive more pollutants. The less polluted
12 areas receive less pollutants. And if you make it a
13 national average, then it averages out.

14 CHAIRPERSON RIDDLE: I have a comment, and
15 then back to Nancy. I really appreciate you bringing
16 this up, and it's been on my mind as well. And I see
17 that it relates to the whole term used in the
18 regulation, and even defined, of unavoidable residual
19 environmental contaminants, or UREC.

20 And in the preamble it discusses that the
21 Secretary will be establishing UREC levels. And to my
22 knowledge, the Board and the program has not taken

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1 this up, and, you know, I -- there certainly are other
2 priorities to be working on, but we can't ignore this
3 one forever.

4 So I truly appreciate your bringing it up
5 and providing some further information to the Board to
6 consider.

7 Nancy?

8 MS. OSTIGUY: The national level,
9 standard, whatever, would make -- I can see the logic
10 of that. How would we deal, though, or has OMRI
11 thought about how we would deal with materials or
12 substances like selenium, which have very widely
13 different levels in the country?

14 MR. BAKER: That's a good question, and I
15 would suggest, you know, to echo what Jim says, I know
16 that you have many things to deal with. And to make
17 it tractable, to make it possible to deal with, I
18 would suggest you prioritize certain metals starting
19 with, of course, arsenic and lead, because they are on
20 the prohibited national list, and they're referred to
21 in the statute.

22 But then, also looking at -- I would

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1 suggest that the next priority after that be cadmium,
2 because it appears in so many different amendments
3 used in organic production, and because of its
4 mobility and toxicity.

5 CHAIRPERSON RIDDLE: Thanks, Brian.

6 MR. BAKER: Thank you.

7 CHAIRPERSON RIDDLE: Okay. We have Joe
8 Smillie, and then Leslie Zuck. And before you start,
9 Joe, if I could have someone check the list, sign-up
10 list, see if there are any additional names, because
11 we're getting down to the end. I want to make sure
12 everybody gets their chance.

13 All right. Thanks, Joe.

14 MR. SMILLIE: Joe Smillie, that's S-M-I-L-
15 L-I-E. I work for Quality Assurance International,
16 and I'd like to speak today on behalf of that agency
17 and also as an organic consumer.

18 Thank you for having this meeting. Thank
19 you for allowing everyone to speak. As a
20 certification agent, we deal with the issues that
21 you're talking about every day. We have a policy
22 meeting every Tuesday morning that lasts for two

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1 hours.

2 We call our group Deep Gray, and we deal
3 with this stuff all the time, so it's really
4 refreshing to come here and hear fellow colleagues
5 deal with the same issues, because they're tricky.
6 And as Brian pointed out, we have general agreement on
7 most things. It's the middle ones that we have
8 trouble with.

9 I'd specifically like to thank the NOSB
10 from the bottom of my heart for clarifying and coming
11 back with a new recommendation on listing of
12 certification agents on packaged product. That was
13 really disturbing. The report last time we asked you
14 to reconsider it. You did. You came up with what I
15 think is an excellent recommendation, and hopefully
16 the NOP, it sounds like, will adopt parts of it.

17 I've heard Barbara specifically talk about
18 voluntary certification and the recognition of
19 voluntary certification for retailers who accept the
20 certification as a final handler. And that's very
21 important, and I look forward to seeing that
22 enshrined.

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1 The issue about mandatory certification
2 for retailers or others who go the private label route
3 is complicated. And as you've discovered yourself,
4 where do you draw the line between just having
5 something made for you, and then also -- we also have
6 clients who have co-packers, but basically they're
7 running that co-packing facility.

8 I mean, they're filling out the
9 application forms, the organic compliance plan, the
10 specifications, ordering the agreements -- you know,
11 they should be certified. But it's a tricky issue and
12 one which I know that you'll deal with, and it will
13 take some time to figure out where you would stand on
14 mandatory certification of companies that commission
15 private labels but are really much more involved in
16 it. I look forward to that dialogue and hope to
17 participate in it.

18 On the second issue, it's a mix of
19 personal and professional concerns, and that's the
20 whole idea of the yeast issue, which talks about a lot
21 of living organisms. I especially liked the
22 conversation. I loved Dave's very simple analysis --

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1 living and non-living. I know it has its limitations,
2 but I like it.

3 I loved Goldie's supportive culture,
4 because we're talking about cultures that can be
5 handed down from generation to generation that are
6 cared and nurtured for in the -- and are truly
7 organic.

8 I think Andrea's point on the regulatory
9 that nothing forbids it, if you can come up with an
10 organic compliance plan to justify the raising and
11 culturing of these wonderful cultures, and that's a
12 reasonable compliance plan, I think you'll see a great
13 difference between the way conventional bacteria are
14 produced and others.

15 And with the GMO threat to enzymes and
16 that, I think we'd better start looking at organic
17 culture of cultures.

18 On a personal note, I eat large amounts of
19 miso, tempe, shoyu, and tamari. And these were --
20 some of these products were some of the original
21 organic products in the organic industry, and it would
22 just be more than a crying shame -- I can live with an

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1 organic Twinkie, but I can't live without organic
2 shoyu and miso. And I would hate to see those
3 products eliminated because of a strict, rigorous,
4 scientific interpretation about Koji cultures.

5 I've been to -- koji is, and I'm getting
6 my, you know, cartoon book of Guide to Chemistry for
7 sure, but aspergillus oryzae -- or, no, ryzobis --
8 ryzobis -- no, ryzobis is tempe, aspergillus oryzae
9 is miso and shoyu and that. And I visited some of
10 these cultures, and let me tell you, it's an
11 agricultural culture.

12 I mean, the way that koji is raised is
13 phenomenal, and you just need to go to South River
14 Miso in Conway, Massachusetts, if you want to see
15 organic culture raising. It's fabulous.

16 On that issue, you know, don't take away
17 my miso and shoyu --

18 (Laughter.)

19 -- as organic. It really will get ugly,
20 then, and betray my last name.

21 On the third issue, I really support --
22 and I thought Michael McGuffin really laid it out very

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1 clearly for you. I think it's just really obvious,
2 and I think we just need to deal with it. I don't
3 think that's a complicated issue, as I carefully
4 pointed out myself.

5 And I think we need, as a certification
6 agent -- you know, we're tied. Joe Mendelson made
7 some comments about having, you know, certifier seal
8 up there without the USDA rule. And that's a problem
9 for us, because when you get down to the logistics of
10 what certificate do we issue, yes, there's no USDA
11 seal, but what certificate do we, as an ACA, cut for a
12 product that we clearly see as organic, we clearly see
13 their right to do it, but we've got this
14 jurisdictional issue.

15 So let -- I think that's solvable, and I
16 think if we applied political pressure and allow the
17 NOP to make the right decision, I think that's the
18 route we should take on that.

19 So, once again, I thank the NOP for their
20 great work, you for your great work, and I really
21 enjoy these meetings. Some people find them tedious
22 and boring, but for those of us who live every day in

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1 these issues it's just fun to see other people have to
2 suffer the same fate.

3 (Laughter.)

4 Thanks.

5 CHAIRPERSON RIDDLE: Thanks, Joe, and it's
6 good to see you here.

7 Leslie Zuck, and then Marty Mesh.

8 MS. ZUCK: Good morning. I'm Leslie Zuck,
9 Executive Director of Pennsylvania Certified Organic.
10 In regard to the Board's recommendation on commercial
11 availability of seed, I would like to say that we have
12 farmers who often ask us if they -- "Do I have to
13 purchase organic seed? I've never heard of this
14 supplier before. They may be in California or New
15 Mexico, and I'm used to buying my seed from my local
16 dealer." And they really are reluctant.

17 It may be a vegetable grower who really
18 needs to meet their customer satisfaction and demands
19 for the quality of their vegetables, or it could just
20 be an organic dairy farmer that doesn't want to risk
21 their entire corn crop to some unknown variety of
22 seed.

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1 So we -- we tell them, you know, that -- I
2 mean, these are also farmers who are very dedicated to
3 organic, and they do want to do what the right thing
4 is to do. They're not trying to wiggle out of it, but
5 they've got -- their farm is their main -- their main
6 concern.

7 So we tell them they have to make a good
8 faith effort to use the organic seed, and in this case
9 that they should try some of the seed, get some of it,
10 try it, see how it works for them, see how they like
11 it, and that's what it really boils down to. If the
12 farmer likes it and it works for them, and it works
13 for their customers, they're going to grow it.

14 And, you know, I've seen this happen. You
15 know, I have to say, I would be a bit embarrassed to
16 have to tell the farmer, "Well, you know, you could
17 try some, but you've got to use scientific methods and
18 replicated trials." I mean, the farmer doesn't know
19 how to do that, and I don't know how to do that. So
20 that's -- that's the one issue I have.

21 And some farmers have actually done these
22 trials and have been disappointed in the quality of

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1 the organic seed. On the other hand, many produce
2 growers, particularly tomato growers of heirloom
3 tomatoes, have been happy to be able to switch to
4 organic seed because of the more availability of the
5 quality seed.

6 Personally, I had an entire year of --
7 total crop failure the first year I purchased all
8 organic potato seed, and I wouldn't buy those spuds
9 again, scientific methods or not.

10 PCO also does not have a database or a
11 list of the non-organic seeds that our clients are
12 growing on hundreds of farms in Pennsylvania. So the
13 reporting requirement would impose an additional
14 paperwork burden on the farmers as well as this
15 particular certifier to come up with that list.

16 I'm just really reluctant to impose more
17 paperwork burdens on my clients without, you know,
18 some strong justification that I can say that this
19 information and data is useful somehow. And I guess
20 I'm not feeling that way at this point, that the
21 information will be used for something that would be
22 useful for the industry.

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1 Regarding the labeling of organic products
2 by non-certified retailers -- different subject, sorry
3 -- this is a major problem. The retailer's exemption
4 was intended to exempt grocery stores from
5 certification, allowing them to buy and resell organic
6 products in their stores without having to be
7 certified.

8 However, the problem is once a retailer
9 starts putting its own products out there in the huge
10 supermarket stream of commerce, it should be required
11 to submit to the same organic certification
12 requirements that, you know, other brand owners who
13 have identical organic products that are competing
14 with these store brands have to -- have to submit to.

15 You know, I'm also extremely uncomfortable
16 with having the PCO seal and the USDA seal on millions
17 of packages sold by a company that PCO does not
18 certify. PCO is responsible for the organic
19 certification of those products, yet does not have the
20 right to inspect the premises or the records of the
21 company that's selling them to the customers or
22 consumers, nor does the company have -- that company

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1 doesn't have to submit sales records to us, it doesn't
2 have to pay certification fees, it gives them an
3 unfair marketing advantage over identical products
4 branded by certified entities, you know, which in most
5 cases the store also sells those products and is
6 making a profit on them as well.

7 So I feel like if they want the benefits
8 of certification, and they want to use the USDA seal,
9 that the retail operation should have to pay the price
10 and submit an organic system plan and be inspected.

11 We've already run into problems with this
12 following up on consumer complaints about products
13 carrying the PCO seal, but branded by a company we
14 don't certify. We also have a situation where our
15 client's label, complete with the PCO seal, was being
16 placed by a retailer on a product our client did not
17 produce.

18 This product was then distributed
19 throughout the east coast, and to this day I don't
20 know if it was organic. But that's been resolved.

21 I support the recommendation that labeling
22 products with store brand -- with the store brand

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1 becomes processing and requires the store to obtain
2 certification for that product. Not necessarily the
3 entire store would have to be certified, but the
4 production of that product should have to be
5 certified, and I hope that this issue can resolve --
6 be resolved within the constraints of OFPA.

7 And one last thing -- two sentences --
8 honey standards are desperately needed. Organic honey
9 is being marketed in the U.S., accompanied by
10 certificates issued by USDA-accredited certifiers,
11 which state that the honey complies with the NOP
12 standards. And it's difficult for me to explain to
13 potential clients why we can't certify honey producers
14 when their competitors in foreign countries are being
15 certified.

16 CHAIRPERSON RIDDLE: Okay. Yes, Hugh,
17 then George.

18 MR. KARREMAN: Leslie, how is it that, if
19 I understood you right, some of these -- some products
20 are out there with the PCO label if you didn't give
21 it? How is that?

22 MS. ZUCK: Good question. Originally, the

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1 retailer was -- had a private label agreement with one
2 of our clients, and had a label produced for that
3 client and packaged -- the products were packaged and
4 put in the stream of commerce. Our client was
5 certified private label, no problem.

6 But then they ended their agreement, and
7 the store found another supplier of the product, and
8 used the labels and put it on the other product
9 produced by another place.

10 MR. KARREMAN: So they had spare labels.

11 MS. ZUCK: They didn't. They actually --
12 from what I understand, they actually went and had
13 them xerox copied and made the same way that the old
14 ones were.

15 MR. KARREMAN: That would sound illegal,
16 but I don't know what the statutes say on that.

17 CHAIRPERSON RIDDLE: Are they also using
18 the USDA seal?

19 MS. ZUCK: Oh, yes. The seal was -- the
20 seal was --

21 CHAIRPERSON RIDDLE: So both your seal and
22 USDA.

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1 MS. ZUCK: The label was identical to the
2 one we approved. It went through the certification
3 process, was approved by the certifier, had our
4 certification on it, and they didn't think they were
5 doing anything wrong. It was not -- I don't believe
6 it was intentional.

7 CHAIRPERSON RIDDLE: We have George and
8 then Gerry.

9 MR. SIEMON: But that's -- this is fraud.
10 You know --

11 (Laughter.)

12 -- please don't confuse policy with fraud.
13 Please. Okay?

14 MS. ZUCK: They really -- I think it was
15 totally an honest mistake. Sorry.

16 CHAIRPERSON RIDDLE: Okay. George,
17 continue.

18 MR. SIEMON: You first said that there's
19 places you did certify, and where you certified the
20 plant, you certified the processing, you certified the
21 ingredients. It's got your seal on it. You said that
22 you still felt uncomfortable that the retailer was

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1 selling that.

2 I don't understand that. You're
3 responsible -- your seal -- for the integrity of that
4 product when it's sealed. Why do you care what the
5 certifier and private label -- I mean, the retailer's
6 -- there's no difference between that or a brand and
7 once it leaves the plant.

8 Why is it a concern to you about their
9 certification when you're responsible for putting it
10 in the container and sealing it? So I'm confused with
11 what you said earlier. You said you were -- that it
12 wasn't right. I disagree.

13 MS. ZUCK: Well, I --

14 MR. SIEMON: Or I didn't understand your
15 point.

16 MS. ZUCK: It makes it really difficult
17 for the certifier to follow up on any consumer
18 complaints about a product that they purchased
19 somewhere. We can't -- the situation that I just
20 talked about would not have occurred had we been, you
21 know, inspecting and looking at the records, and that
22 the retailer, as a certified entity, would understand

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1 what's required of them, what's not allowed to be
2 done, what is required as far as labeling, would not
3 have occurred had we certified that plant.

4 We had to spend a lot of time and effort
5 following up on this complaint. It was very
6 difficult. It happened in a state -- you know, five
7 states away, you know, somewhere else, that has our
8 name on it. So we're required to follow up on
9 complaints by -- you know, according to our
10 accreditation requirements, and, you know --

11 MR. SIEMON: But that seal was wrongly
12 applied. It was fraudulent behavior. You know,
13 you're always going to -- fraudulent is going to cause
14 a lot of trouble for all of us to follow up on the
15 research.

16 CHAIRPERSON RIDDLE: I have a comment, and
17 then we'll go to Gerry and Hugh. And that is in
18 response to your questions about value of seed lists.

19 Well, first, I'd just, you know, like to point out as
20 you well know that records are mandatory to
21 demonstrate compliance and to record transactions, and
22 that's inputs as well as sales.

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1 And so, you know, and certainly something
2 like records of seed purchases do need to be recorded
3 by the operator and reviewed by the inspector. So
4 it's not like the information does not exist. It
5 should exist to comply with the regulation to begin
6 with, but you -- yes, it's true that this would be an
7 additional collection, and then submission of that
8 information that already exists.

9 And why is that valuable? I guess to a
10 certifier, if you do have a database where that's
11 feeding in from different inspectors and different
12 reviewers, you have a better tool for compliance
13 between all of the operations you certify to make sure
14 you're making consistent decisions, you know, and so
15 that one operator isn't telling one inspector a
16 certain story when those seeds are clearly available
17 in an organic form, even in that variety.

18 So it can help with -- you know, with your
19 own enforcement, but then also to bring consistency
20 between certifiers in the accreditation process, so
21 that you're on a level playing field with all other
22 certifiers. So those coming into NOP certainly could

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1 help bring consistency with that enforcement.

2 And then, finally, having that information
3 come in in a generic form, not lists of names of the
4 companies or the operators, but just the varieties,
5 can certainly help advance the whole development of
6 organic seeds and the availability, so that operators
7 can better comply with the organic seed requirements.

8 And maybe that wasn't spelled out clearly in our
9 discussion yesterday.

10 MS. ZUCK: Yes. Generally and
11 philosophically, I see that, but I guess my concern
12 was all this data going to someplace and, you know,
13 being collected but not necessarily being available
14 for any useful purpose. I mean, I don't want to just
15 send it and then have it be --

16 CHAIRPERSON RIDDLE: And for now, we've
17 made our recommendation. I'm sure we'll hear back
18 about it. And, once again, it's not the end, it's
19 just the beginning of the story.

20 MS. ZUCK: Our clients do keep, you know,
21 records. Those records are kept at the farm, and
22 inspectors do review them. We just don't collect them

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1 at the office.

2 CHAIRPERSON RIDDLE: Right. I understand.

3 Gerry, did you still --

4 MR. DAVIS: You covered most of it, Jim.
5 On the organic seed, the main thing is that -- I want
6 to express to Leslie is that we're trying to make some
7 progress toward further development of the organic
8 seed industry, which several commenters have pointed
9 out to us that it's stagnant, there's not progress
10 being made towards fulfilling the requirements of
11 growers using organic seed that's available, and the
12 market is not developing to make that seed available
13 because of the way we do things right now. And so
14 we're stuck, and that's the --

15 MS. ZUCK: Ultimately, it will benefit the
16 farmers to have more availability of organic seed, but
17 I think there may be other ways to do it.

18 CHAIRPERSON RIDDLE: Any other - Hugh, and
19 then Bea.

20 MS. ZUCK: Surveys.

21 CHAIRPERSON RIDDLE: Okay. You had --
22 hold my chain here.

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1 MS. ZUCK: I think the USDA should have a
2 -- send a survey to farmers or some other way to do
3 it, or seed production companies, you know, some -- it
4 doesn't really need to be the purpose of this Board or
5 this -- or the farmers to come up with that.

6 CHAIRPERSON RIDDLE: No. But compliance
7 with the existing regulations certainly is --

8 MS. ZUCK: Yes, we can --

9 CHAIRPERSON RIDDLE: -- fair game. Hugh?

10 MR. KARREMAN: You mentioned about the
11 honey coming in from wherever it is, and that,
12 again --

13 MS. ZUCK: Foreign countries.

14 MR. KARREMAN: -- it's a labeling issue.
15 But your -- what is it -- you have to put on your
16 seal? Or they're coming in with USDA approval and --

17 MS. ZUCK: Well, if a client -- yes. If a
18 client has a product that contains honey, then we
19 review that product and we determine that every
20 ingredient in that product has a certificate
21 accompanying it stating that it's USDA -- certified by
22 a USDA-accredited certifier.

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1 So we get this certified organic honey,
2 and it comes with a certificate that says that it's
3 certified to the NOP standards by a USDA-accredited
4 certifier. So in -- I then did -- investigated and
5 looked at the standards to -- under which it was
6 certified, and they are not USDA. I mean, they are
7 not in the standards because there are no honey
8 standards, so they are just sort of these other
9 standards for honey production that this certifier
10 uses.

11 MR. KARREMAN: So then you probably
12 shouldn't be certifying that or putting a PCO label on
13 it.

14 MS. ZUCK: Well, the way I understand it,
15 that if -- you know, I can't really look behind the
16 USDA certificate that states that. I mean, my job is
17 to make sure the certificate is valid, which it is,
18 and I can't really go past that and check to see at
19 the farm level that it was done properly. If I did
20 that with everything, I don't think that I'd really be
21 allowed to do that even -- question other certifier's
22 certificates.

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1 CHAIRPERSON RIDDLE: Andrea, then Bea.

2 MS. CAROE: Just a quick question.
3 Leslie, could you disclose to us how you found out
4 that that label problem was happening? Was that
5 through enforcement that you found out, or was that
6 your own monitoring surveillance and --

7 MS. ZUCK: Our client had a regional
8 distributor that found it in the stores and --

9 MS. CAROE: So it was reported back to you
10 --

11 MS. ZUCK: By the client.

12 MS. CAROE: -- by private industry.

13 MS. ZUCK: By the client.

14 MS. CAROE: Okay. Thank you. I just was
15 curious.

16 MS. ZUCK: No one would have known there
17 was anything wrong with it.

18 CHAIRPERSON RIDDLE: Okay. Bea?

19 MS. JAMES: I have just some -- you know,
20 a series of questions to help me understand exactly
21 why you think it's important for a retailer to be
22 certified in order to sell a private label product.

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1 So bear with me, okay?

2 If a retailer -- if a retailer is
3 certified, say, in the grocery department, what are
4 just like the basic things that they have to do to be
5 in compliance for that certification? And I think I
6 know, but I just -- I'd like to hear from you.

7 MS. ZUCK: In the grocery as in the --
8 their store? We don't certify any retailers, so you
9 might be asking the wrong person.

10 MS. JAMES: Okay.

11 MS. ZUCK: What we do is we certify
12 branded products --

13 MS. JAMES: Okay. Okay.

14 MS. ZUCK: -- that are -- you know, we
15 looked at the ingredients, and, you know, we -- mainly
16 we checked the label to make sure the label is proper
17 and the, you know, amounts of labels that are used
18 matches the amounts of product --

19 MS. JAMES: Okay.

20 MS. ZUCK: -- that was produced, that sort
21 of thing.

22 MS. JAMES: So it's my understanding that

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1 if you're certified in the grocery department, that
2 that means that you have to make sure that you're
3 handling and receiving and that you're -- you're not
4 commingling, even though that's difficult to do,
5 because a lot of those packages are packaged anyway.
6 Correct?

7 MS. ZUCK: Yes.

8 MS. JAMES: Okay. So that's kind of like
9 the basic cartoon version of retail --

10 MS. ZUCK: I'm sure it's pretty simple
11 with packaged products, yes.

12 MS. JAMES: So I'm trying to figure out --
13 how does that help quality control, for a retailer to
14 be certified in the grocery department, if they want
15 to sell private label organic pasta sauce? How does
16 that help you monitor your quality control, and really
17 their -- they are -- are being certified to make sure
18 that their handling and receiving and commingling and
19 store operational level of organic compliance is done
20 at that level?

21 But if, say, a retailer is just
22 contracting out to have pasta sauce with their label

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1 on it, that they don't manufacturer, they don't have
2 any involvement whatsoever except to say, "Here's the
3 artwork for our brand logo, and can you please make
4 sure that that's a part of this," you know, that's on
5 -- that's on this package.

6 MS. ZUCK: There's a couple of things that
7 can happen. You know, we are only certifying the
8 plant that makes that soup or that canned good, or
9 whatever it might be, and we -- we know how much they
10 make, what they put into it, how many labels they put,
11 and how much they shipped.

12 But if the store is putting, you know,
13 other -- having contracted with another certified
14 producer to put it on -- to make it as well, it is not
15 certified by us, we don't know that, we -- you know,
16 it's --

17 MS. JAMES: I'm not sure I follow you,
18 because if you certify a plant to produce -- to make
19 pasta sauce, and that retailer contracts with them to
20 put their label on something that the plant is fully
21 responsible for for making sure that they're in
22 compliance with the organic regulations for

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1 manufacturing and handling, I just don't see the
2 connection for -- for making sure that that grocery
3 retailer is certified at the retail level.

4 And the only reason I -- I bring this up
5 is because I think that it would actually hurt a lot
6 of manufacturers if that stipulation was put on a
7 retailer in order to sell an organic product. I think
8 there is an exception. I think there are some
9 retailers that definitely go above and beyond and want
10 to have more involvement and want to be to use that
11 seal, and that's fine.

12 But because of the exemption, I think that
13 the real -- and tell me if I'm wrong here, but, I
14 mean, how can we continue to drive retail
15 certification when there's not clear, concise retail
16 certification guidelines that we have. And why would
17 we -- why would we press that issue in the retail
18 level when, really, the bigger issue has to do with
19 the fact that there is no guidelines for retailers.
20 They're being certified as a handler.

21 CHAIRPERSON RIDDLE: Comment from Barbara
22 Robinson, AMS.

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1 MS. ROBINSON: Leslie, I'm -- let me try
2 to help answer Bea by asking you -- I think isn't --
3 isn't what you're trying to say is the fact that you
4 have -- if you had a relationship with this retailer
5 whereby, based on what I heard you say, you had access
6 to records, you had access to records about the
7 product itself, so that you can trace back beyond just
8 what is on that label, you have some -- you have some
9 access to the traceability that gives you this comfort
10 level about what's behind the label on that product,
11 that you do have more of a comfort level about your
12 logo on that private label.

13 And that's what's discomfoting to you is
14 a private label that just may say "PCO certified" on
15 the label. Okay, fine, but you don't know really what
16 was in the -- it's -- okay, let's just take, you know,
17 vegetable soup. You have nothing -- you don't know
18 anything about what's in that can of vegetable soup
19 because it was co-packed someplace else.

20 But if you have an agreemeent with the
21 store, and so you've got access to those records,
22 whereby you can go in and see, okay, are all the

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1 contents of that vegetable soup actually produced to
2 NOP standards that then -- then you've got a better --
3 you've got a better relationship and --

4 MS. ZUCK: Well, as Bea has said, I've
5 done that already at the production level. And to
6 explain it one step further, from -- I'll just tell you
7 in real life what it cuts down to is these are not
8 processed products that were -- I'm talking about with
9 PCO. They are large quantities of mushrooms and large
10 quantities of eggs. Okay?

11 So these products can -- you know, are
12 just basically sent to the store, overwrapped, and
13 gone, or they're done at the plant and gone. So, you
14 know, the -- you know, the idea that we don't -- we
15 can't follow up with any of that is -- is really, you
16 know --

17 MS. JAMES: Is that the retailers' fault,
18 or is that the person that you certified, the plant
19 that you certified?

20 MS. ZUCK: Well, it is, but, you know --
21 and there's also repacking of produce like oranges and
22 things that, you know, say certified organic by PCO.

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1 And we're in Pennsylvania, so that's kind of odd. But
2 we get a lot of people calling us up and saying -- you
3 know, they have a complaint about the eggs, and we --
4 and it's, you know, in a carton with the store brand
5 up in Connecticut or something, and we don't know how
6 -- you know, we really don't know much about how they
7 got there from the distributor.

8 I mean, they go to the distributor and
9 they go -- you know, these retail distributors are
10 huge, and then they go to all these stores.

11 I feel like I'm taking a lot of time.

12 We don't have any traceability once it
13 goes to the distributorship, and then it goes to 50
14 million stores, and, you know, I --

15 CHAIRPERSON RIDDLE: I have George, Julie,
16 and Andrea. But I'd like to remind the Board that
17 there's only 15 minutes left in public comment, and we
18 still have five people signed up, so -- George?

19 MR. SIEMON: What's the difference between
20 somebody out there putting your seal on their package
21 and somebody moving from a certified plant to a non-
22 certified plant and putting a private label or a

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1 branded? What's the difference? Someone has
2 illegally applied your seal to a product that was not
3 certified by you. What's the difference between
4 private label and branded in that illegal incident?

5 MS. ZUCK: I'm going to say one more thing
6 and then I will -- the way it really happens is there
7 are these producers of mushrooms or eggs, and they're
8 farmers, and they don't have a really huge operation.

9 Like, in Pennsylvania, they're not as big as maybe in
10 the Midwest. And this big supermarket comes to them
11 and says, "We want to market organic eggs under our
12 store label."

13 And the farmer gets really excited, "My
14 gosh, Giant is going to buy my eggs, and this is so
15 exciting." And so they call us up and they say, "What
16 do we want to do? Giant wants to put, you know, our
17 eggs in their cartons and call them organic. And
18 don't they have to identify a certifier?"

19 And, yes, they have to identify a
20 certifier, which is PCO. So, and then we tell them we
21 have to have a private label agreement with this, so
22 we can like -- if there's a customer complaint, we can

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1 go inspect the premises, or we can at least call them
2 up and they'll tell us something and they'll talk to
3 us about it, you know?

4 And they're like, oh gosh, I don't know if
5 they're going to do that, you know? Well, you know,
6 if they want to get certified -- if they want to get
7 organic eggs, we have to do that.

8 MR. SIEMON: I'm asking about the plant
9 who has illegally applied your label. It's their
10 responsibility to put the seal on there. That plant
11 has done the illegal activity, putting a seal on there
12 that was not who they were certified by.

13 MS. ZUCK: Yes. Well, we're trying to
14 prevent more of these, you know, problems from
15 happening. Illegal --

16 CHAIRPERSON RIDDLE: Well, we're not going
17 to resolve that today. Andrea has a very quick point,
18 she promises.

19 MS. CAROE: Just one quick point, and
20 everybody should remember that when you're talking
21 about store private labels, the only one that has
22 control over that label is the retailer. And the

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1 gross assumption you cannot make is that the co-packer
2 we're aware of is the only one that's applying that
3 label.

4 MS. ZUCK: Yes.

5 MS. CAROE: You can't make that
6 assumption. This is not the first time we've heard of
7 this. It has happened before. And the only way that
8 we'll work this out is to be able to understand what
9 happens in that retail operation when they're applying
10 a label that they own.

11 MS. ZUCK: And the stores often refuse to
12 sign these contracts because they don't want anybody
13 inspecting their store.

14 CHAIRPERSON RIDDLE: All right. Thanks,
15 Leslie.

16 MS. ZUCK: Sorry.

17 CHAIRPERSON RIDDLE: That's fine. It
18 wasn't your fault people asked questions.

19 (Laughter.)

20 We have Marty Mesh.

21 PARTICIPANT: He's coming. He --

22 CHAIRPERSON RIDDLE: Well, he may have

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1 missed his --

2 PARTICIPANT: He's right here.

3 CHAIRPERSON RIDDLE: Okay. In the nick of
4 time, and then -- and Julia Sabin is next.

5 And, Marty, do you have a proxy?

6 MR. MESH: I do. Steve Walker.

7 CHAIRPERSON RIDDLE: Okay. Steve Walker.

8 MR. MESH: Well, you've heard the
9 articulate, and you've heard the succinct. Now for a
10 change.

11 I want to thank the -- my name is Marty
12 Mesh, M-E-S-H, the Executive Director of Florida
13 Organic Growers Quality Certification Services, and as
14 is usual, a member of the Board of Directors of the
15 Organic Trade Association, although my comments do not
16 represent the official position of the OTA.

17 CHAIRPERSON RIDDLE: Please speak into the
18 mike. Get a little closer.

19 MR. MESH: I wanted to thank Board members
20 for your efforts over the last few days. Thanks to
21 Tony and USDA for making the hotel available.

22 In relation to Mark's comments, there's

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1 lots of other hotels available. The metro system has
2 worked well for -- for me, and I would be willing to
3 take any farmer under my wing and show them how to
4 save money in Washington, D.C. by --

5 (Laughter.)

6 -- finding alternative living
7 arrangements.

8 It does bring up the point about having
9 meetings outside of D.C., though, and I think that
10 that point deserves to be considered. Again, the
11 meetings used to be outside of D.C.

12 I believe the NOSB, a group of committed
13 volunteers from different stakeholder groups needs to
14 have increased resources in order to do what's being
15 expected of them, including adequate scientific help
16 accessible for them, and I think it would make your
17 job easier.

18 I think you're being held to -- to -- I
19 think your job description has grown, and the
20 expectation is that maybe even the program staff -- is
21 putting on you are not workable given the resources
22 that you have.

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1 I, too, have a concern about what I
2 thought about was unfunded mandates of certifiers.
3 You know, annotation has always kind of caused
4 concerns, but if carried out will only translate to
5 increased costs for certified entities.

6 Michael Sligh's comments articulated well
7 the potential unintended consequences of the organic
8 seed requirements affecting local seed viability. The
9 seed-gathering discussion, while from a macro
10 conceptual point includes admirable reasons, the
11 implementation and suitability in variance and
12 regional specificity of plant varieties, the
13 likelihood that the data, if gathered, and if turned
14 in, is misinterpreted for private corporate gain,
15 private profit, or not available in a timely manner,
16 is very high as well as the effects on
17 internationally/locally adapted seed varieties that
18 are typically and historically used in organic seed
19 production.

20 After all, it brings -- it brought the
21 memory back of the certificate discussion. We, as
22 certifiers, always wanted dates on the certificates,

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1 that as certifiers the industry and consumers raised
2 numerous concerns. What we were promised by the
3 national organic program staff was a national database
4 -- was held up as the solution. And years later the
5 situation remains the same, where dates on
6 certificates would be helpful in the field.

7 The database is yet to be implemented, and
8 it's not due to the program staffs, you know, not
9 caring about things. It's just other priorities have
10 taken -- have taken their attention, I assume, or the
11 resources haven't been there.

12 Speaking of resources, this brings me to
13 the -- to the proposal which I brought forward, and
14 which was brought forward by others as well years ago,
15 for which there was lukewarm reception, and, no, it
16 wasn't for compensating farmers for government-
17 mandated spray programs, which that concern still is
18 out there in the case of citrus growers growing
19 Valencia oranges.

20 Under the current program, they can still
21 lose access to the organically-grown label for two
22 years without any compensation for the increased cost

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1 of farming in a more sustainable manner, and the
2 public benefits which accompany that. Those public
3 benefits, while becoming more well-known, have not
4 been espoused with U.S. Government help as the
5 purported benefits of biotech have enjoyed through the
6 years.

7 But concerning unfunded mandates and lack
8 of resources for this industry to grow, I, once again,
9 bring up the idea of a simple one percent retail
10 check-off. Yes, years ago it was a half of one
11 percent retail check-off -- which would mean a 99-cent
12 yellow squash would sell on the retail level for one
13 dollar.

14 The retail sector, where a large amount of
15 the money -- a disproportionate amount of the money is
16 which -- that price captures the whole supply chain,
17 on the U.S. national retail sales now exceeds \$7- to
18 \$8 billion. And so for the sake of easy math, I used
19 \$10 billion, given the continued growth of the
20 industry. One percent is \$100 million.

21 Certification could be free. I'd be more
22 than happy to gather seed data and turn it all in to

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1 the U.S. Government with some additional resources on
2 the certification end.

3 Certifiers -- the \$50 million that we
4 advocated for for organic research would be there.
5 Money to do research education would be available in a
6 painless -- in a more painless way, funded on the back
7 end, not the front end, at the farm gate level or the
8 source.

9 An organic producer in Florida who was
10 devastated by the 2004 hurricane season, crop disaster
11 payment, e-mails, there's a lot of work to do at the
12 USDA. I'll just read this one line into the record

13 As she -- as they were still trying to get
14 hurricane disaster benefits, which I'm not sure how
15 the use of methyl bromide, you know, keeps a hurricane
16 from affecting you, but it -- this talks about their
17 -- their application for assistance is denied because
18 fumigation is a requirement for aquaculture practices.

19 There is no authority to implement provisions
20 differently than contained in the regulation.

21 The idea that -- that organic producers
22 can't take advantage of other USDA program disasters

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1 because of the bias still held to organic is troubling
2 and remains so.

3 And then, I need to comment about organic
4 fish. The National Organic Program Director came to
5 Florida in a public setting, spoke about if you can
6 produce a fish in -- you know, under this program by
7 feeding all organic feed, then by God you can sell it
8 and you can put a USDA logo on it.

9 Companies took the U.S. National Organic
10 Program Director at his word, invested several hundred
11 thousands of dollars into, you know, designing a
12 production system, implementing a production system,
13 carrying it out, certifying it, have been feeding at
14 great cost -- I mean, if there's any livestock
15 producers in here that know the difference between
16 sourcing conventional feed and sourcing certified
17 organic feed, and feeding livestock, the cost is
18 considerable.

19 And they've been doing that. They have
20 been feeding 100 percent certified organic feed to
21 shrimp. And, yes, they put the USDA logo on it. We
22 have, as their certifier, asked and requested, and I

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1 thought they had removed it and taken it off, but, you
2 know, we also, on behalf of our certified entities,
3 petitioned the USDA quite some time ago to engage in
4 expedited rulemaking -- I believe is the phrase that I
5 used -- in relation to aquaculture.

6 And, you know, these producers are trying
7 to hang on by a thread, competing against shrimp that
8 isn't fed organic feed, but yet carries organic shrimp
9 on it. I would think that my colleagues from
10 Consumers Union and the Center for Food Safety would
11 be more concerned about shrimp that's not fed organic
12 feed than shrimp that is fed 100 percent organic feed.

13 And I understand the consumer -- the
14 consumer confusion, and that's why we asked for and
15 requested expedited rulemaking.

16 I have five more minutes, I thought,
17 Goldie.

18 CHAIRPERSON RIDDLE: No.

19 MS. CAUGHLAN: You have used up nine.

20 MR. MESH: Oh.

21 (Laughter.)

22 Damn. All right. Well, then, I would

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1 like to clarify the private label issue. This is the
2 same -- not the same jar, but the same product that I
3 used for Keith in Atlanta at the accreditation
4 training to try to illustrate the idea of private
5 labeling with the concern.

6 This is coffee, obviously, that's grown in
7 various countries, a blend of coffees. You know,
8 packed in Germany in probably a certified facility,
9 packed for a distributor in New Jersey. The point
10 that certifiers have or the concern that certifiers
11 have, if the distributor -- if the private label isn't
12 certified, nobody has access to know how many -- how
13 many --

14 CHAIRPERSON RIDDLE: Finish your thought.

15 MR. MESH: -- jars of coffee there are,
16 and how many plants throughout the world are actually
17 producing this jar with these labels. You know, if --
18 if you go to one facility, you can audit how much
19 coffee came in and how many jars went out. You don't
20 know if there's more jars, more factories in other
21 countries producing the same jar.

22 This jar is in every store there is.

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1 There is a lot of organic instant, you know, coffee
2 that, believe me, people are paying a premium price
3 for being sold. And so that's the concern, at least
4 from my point of view, of certifiers not having access
5 to those records. You know, who has those records,
6 who has access to them, and can we vouch for the
7 integrity of the product.

8 CHAIRPERSON RIDDLE: Thanks, Marty.

9 MR. MESH: Questions on shrimp or other
10 produce?

11 MS. KOENIG: My question is -- well, no,
12 my statement -- and it -- you know, it has to do with
13 Michael Sligh's comment, and you also said it, and I
14 think that there's confusion. And maybe I'm confused
15 as to the way we propose this organic seed under three
16 -- you know, in terms of land races and -- and, you
17 know, developing countries and subsistence farmers
18 trying to get into organic --

19 MR. MESH: Or Florida farmers.

20 MS. KOENIG: Well, but if you look at --
21 it's A, B, and C, or the research. Okay? So, in
22 other words, you know, if they can justify non-organic

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1 seed based on the attributes -- you know, it's a land
2 race, it's adapted to the specific geographical
3 region, our policy I don't think is different than
4 what has been sort of the commercial availability
5 clause.

6 But, you know, or, if you're going to say
7 "research," you know, if you're going to use the
8 research and say, "Well, no, the research doesn't
9 prove it," if you're just going to use that, it says
10 that if you do research to prove it, then you have to
11 do, you know, evaluative research. And maybe -- and
12 that's how I understand "or." It's not "and, and,
13 and."

14 So I don't know, we can maybe try to get a
15 clarification of that.

16 CHAIRPERSON RIDDLE: Thanks for that,
17 Rose. Thanks, Marty.

18 Okay. Julia Sabin, and then Aaron Zeis.
19 Julia?

20 MS. SABIN: My name is Julia Sabin,
21 General Manager of Smucker Quality Beverages. Good
22 morning, National Organic Standards Board, National

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1 Organic Program, and interested members of the organic
2 community.

3 SQB procures organic ingredients,
4 manufactures and markets a number of organic products
5 under our brands of R.W. Knudsen, After the Fall, and
6 Natural Brew, as well as our all-organic brand of
7 Santa Cruz Organic.

8 SQB has submitted a list of materials to
9 the National Organic Program and the National Organic
10 Standards Board that we believe are essential for the
11 continued use in our handling operation, and those of
12 the farmers and ingredient suppliers.

13 We encourage the NOSB and the Secretary of
14 Agriculture to keep those materials on the national
15 list. We thank you for the timely posting of sunset
16 review comments and encourage the NOP to continue to
17 post all comments and Board recommendations for
18 transparency.

19 Any documents that the Board utilizes as
20 information to assist them in materials review should
21 also be timely placed on the NOP website for the
22 public to view.

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1 In closing, we encourage the NOSB and NOP
2 to work in conjunction with the organic industry on
3 reclassifying materials and clarifying definitions.
4 It is critical that recommendations made by this Board
5 take public comment into consideration, are consistent
6 with OFPA and with past board recommendations.

7 As always, we continue to fully support
8 the NOP and the NOSB and thank you for all your
9 tremendous work and dedication.

10 Thank you.

11 CHAIRPERSON RIDDLE: Thanks, Julia.

12 Aaron Zeis? And then next up is Emily
13 Brown Rosen. And before you start, Aaron, I just want
14 to know if Mark Cox or Christine Cox are here, or Mark
15 Retzloff. Okay. So Aaron, and then Emily.

16 MR. ZEIS: My name is Aaron Zeis.

17 CHAIRPERSON RIDDLE: Zeis, I'm sorry.

18 MR. ZEIS: That's quite all right. Z-E-I-
19 S. And I am a farmer of three acres of mixed produce
20 and I serve as Administrative Director for Indiana
21 Certified Organic.

22 Good morning, members of the Board and NOP

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1 and guests. I would like to thank you for the
2 opportunity to share my views with you.

3 Today I'm here representing my opinions as
4 an organic farmer and consumer. I have just a couple
5 of items I would like to briefly address. The first
6 is with regards to the USDA NOP certification of
7 personal care products. I do believe there is a huge
8 demand for personal care items that consumers can
9 trust to be free of chemicals and synthetic
10 ingredients.

11 I do understand that the authority with
12 regards to personal care items is the FDA. However,
13 many of -- many consumers are requesting more
14 regulation and oversight on these items than the FDA
15 is already providing. I do not have the perfect
16 solution. However, I am aware of the cooperation and
17 collaboration with other governmental agencies in the
18 NOP, such as the EPA, with regard to pesticide reviews
19 to NOP standards and the FSIS reviews of organic meat
20 labels, TTB reviews of organic alcohol labels, and
21 even the FDA with regard to livestock supplements.

22 I would hope there could be some point of

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1 FDA review or cooperation with NOP to ensure the
2 concerned public is not exposed to harmful chemicals
3 such as thalades, aluminum compounds, or sodium laurel
4 sulfate.

5 My second item is in reference to the
6 guidance on the commercial availability of organic
7 seed. I would like to thank the Board for addressing
8 this item, as I believe it to be a major problem in
9 the organic industry and a loophole that some farmers
10 may choose to fudge.

11 I understand there is a large quantity of
12 organic seed that is not being purchased due to this
13 very problem.

14 I would like to approach the topic first
15 from the vantage point of an organic farmer who grows
16 over 75 varieties of produce, which is really not all
17 that uncommon among diversified produce growers. The
18 concepts of research and replications for all
19 varieties is a completely impossible task. Jim and I
20 spend many hours each year searching for organic seed
21 and documenting my attempt when the particular variety
22 of tomato or lettuce suited by my climate is not

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1 commercially available.

2 There are thousands of tomato varieties,
3 and many of the same varieties with different names by
4 different seed companies. So hopefully you can see
5 some of the confusion that may arise.

6 As a certifier, to document the
7 nomenclature of all seed which is reported to be
8 commercially unavailable and cross-reference this to
9 which is available and report this annually, monthly,
10 or daily to the NOP is something beyond comprehension.

11 Crop failures, weather difficulties, and
12 other factors may leave a farmer without many choices
13 late in the season. How can we really distinguish
14 this with those who are trying to find the cheaper
15 route?

16 This is a task which can be -- which --
17 this is a task which would place an overwhelming
18 burden on the certifier, with an increase of labor
19 requirements for all certifiers across the board,
20 therefore likely affecting certification costs and
21 paperwork for farmers.

22 I believe the commercially-available

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1 loophole is a problem and needs attention, and I
2 appreciate the work that the Board has put into this
3 recommendation. However, I believe it has not been
4 addressed from the viewpoint of farmers and
5 certifiers.

6 I am aware of the organic seed list
7 available through ATTRA and other certification
8 agencies, and maybe there could be a list created in
9 which all seed companies may post varieties available
10 on perhaps the NOP website.

11 I once again realize that I may not have
12 the perfect solution, but I believe the proposed
13 recommendation to be unreasonable.

14 I would like to thank the NOP and the NOSB
15 -- well, I'd like to thank the NOSB for passing the
16 pasture recommendation yesterday, and I would like to
17 thank you all for all of your hard work.

18 Thank you.

19 CHAIRPERSON RIDDLE: Thanks, Aaron.

20 Okay. Emily Brown Rosen is the last
21 commenter signed up.

22 MS. ROSEN: Thanks. Emily Brown Rosen,

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1 Organic Research Associates. I just will be very
2 brief and -- I don't want to drag this out, but
3 looking forward on the sunset process, I just had a
4 couple of points to make here, since that's your next
5 big job here.

6 I support -- I'm glad you gave that review
7 of items that you think are obviously in need of
8 review. I think those were all good choices. I'd
9 just like to point out a couple more.

10 The NOSB originally reviewed and
11 recommended a two-year sunset on a couple of specific
12 items back in 1995. So considering that it's 10 years
13 later, I think it's probably a good idea now.

14 One of them was chlorine, and chlorine I
15 know you worked on, you know, trying to change the
16 annotation two years ago. We still haven't got that
17 annotation anywhere achieved, and it is a very widely
18 misinterpreted substance on the list. I believe it's
19 being used at all different rates with all different
20 justification. It's kind of hard for -- you know,
21 it's just not consistent.

22 And I would like to point your attention

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1 to a comment that has been already posted by Bob
2 Sanderson from Jonathan Sprouts that's on the
3 processing list. He wrote a very good comment about
4 the use of chlorine in sprout treatment, which is a
5 real concern. You know, he claims that it's being
6 allowed at 20,000 parts per million, which is an FDA
7 guideline for sprout safety at this point in organic
8 production, and that the residues can be up to 16,000
9 parts per million, which is -- this is not an organic
10 product.

11 You know, I don't think if consumers knew
12 there was that much chlorine residue in the product
13 they would think it was organic. So we need to look
14 at that. I mean, he -- and he has an alternate method
15 for doing it that involves a lot of testing and good
16 HACCP management. So it's something that should be
17 addressed.

18 The other item that was a two-year sunset
19 was in crops -- streptomycin and tetracycline as
20 antibiotics for use in bacterial disease control. I
21 think there are alternatives out there. They might
22 not be totally satisfactory, but it's time to revisit

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1 that and let people come to the floor to say, you
2 know, we do or we don't need that.

3 But I think it's -- it was questionable at
4 the time, and with the concern about antibiotics in
5 general being applied in the environment I think that
6 would be a good one.

7 The other thing I wanted to say was that I
8 was very impressed with your new TAP reviewers from
9 Virginia who did the sucrose octanoate ester and the
10 chitosan reviews. I think they're a good resource,
11 and that when you -- they seem to be particularly well
12 informed as far as regulatory status and FDA status of
13 different items, because that's not always easy to
14 figure out. I know from having to dig it up in the
15 past.

16 So as we go forward, one other item, then,
17 would be nutrient vitamins and minerals in food
18 processing. Depending on how the Harvey thing shakes
19 out, there is going to be a need to determine which
20 nutrients are really required by law, you know, if
21 they're going to be -- continue to be allowed in
22 organic food. And I think that could be a helpful

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1 resource.

2 Looking through that and making sure that
3 we get a real good clarification, it's not all of
4 them, it's -- you know, there's certain ones, and
5 it's, you know, lots of different conflicting
6 regulations there. So just a heads up.

7 Thanks very much, and you did a great job
8 this time. There was a lot of hard work, so good
9 luck.

10 CHAIRPERSON RIDDLE: Thanks, Emily.

11 And we will take a 15-minute break, and
12 then come back with the committee chair work plan
13 reports. And before you do that, as you give it
14 thought over break, one of the first items that each
15 committee chair needs to do is finalize
16 recommendations from this meeting, feed them back into
17 me to submit to the program. So keep that in mind.

18 All right. Fifteen-minute break. Be back
19 at, let's say, 25 after. That's even a little longer
20 than 15.

21 (Whereupon, the proceedings in the
22 foregoing matter went off the record at

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1 10:10 a.m., and went back on the record at
2 10:30 a.m.)

3 CHAIRPERSON RIDDLE: Please take your
4 seats, and we'll resume business with the committee
5 chair reports on future work plan items. And as we
6 have done in the past couple meetings now, you know,
7 we can have a very brief and focused discussion of
8 those if other members of the Board have any questions
9 to clarify or if NOP has any input on those proposals,
10 and also if you would kind of prioritize and a little
11 timeline so that we can project what's coming up when.

12 So -- I'm sorry, can't think of
13 everything. So, who would like to go first? Kevin,
14 are you prepared for Handling Committee?

15 VICE CHAIRPERSON O'RELL: The Handling
16 Committee work plan -- the first item, high priority
17 is the -- will be taking the issue on the ag/non-ag
18 that was deferred after a very spirited debate. At
19 this meeting we'll be requesting an expedited TAP
20 review, full TAP review, for yeast, so we can get some
21 information on the manufacturing process, both
22 conventional and organic, at least in Europe. We'll

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1 be looking at the public comment, and we'll be
2 proposing a new recommendation.

3 Sunset material review process -- of
4 course, we'll be reviewing the public comments and
5 moving forward on those materials that we marked as a
6 priority -- colors, flavors, and yeast -- as well as
7 looking at other materials on that list to see if any
8 ones are highlighted as being needed to move up on the
9 priority list.

10 Pet Food Task Force -- we'll continue to
11 be an observer/participant in the Pet Food Task Force
12 as it moves forward towards its recommendation to the
13 Board. And then we'll be reviewing any petitioned
14 substance -- substances as -- as required. We'll also
15 be working on the determination of a commercial
16 availability criteria in cooperation with the Policy
17 Development Committee.

18 That's what we have on our plan currently.

19 CHAIRPERSON RIDDLE: Okay. Any questions
20 from Board members, comments? George?

21 MR. SIEMON: Generally commercially
22 available for which parts, the ingredients, the 605 --

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1 I mean --

2 VICE CHAIRPERSON O'RELL: Six. Yes, 606.

3 MR. SIEMON: 606, I'm sorry. That
4 section.

5 CHAIRPERSON RIDDLE: Substances that are
6 petitioned to place on 606, both the criteria and
7 procedures for those reviews, right?

8 VICE CHAIRPERSON O'RELL: Yes.

9 CHAIRPERSON RIDDLE: Okay. Any other
10 comments? All right. Thanks, Kevin.

11 Dave, are you ready?

12 MR. CARTER: Yes. The Police Committee,
13 we really have six things on our plate right now.
14 First of all, as Kevin mentioned, we'll be working
15 with the Handling Committee on the determination of
16 the commercial availability under 205.606.

17 Secondly is to obtain the public comments
18 and then to develop the final recommendation on the
19 temporary variances for research document.

20 Third is the continuing saga, the
21 neverending saga of Board policy manual revisions, as
22 that goes on.

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1 Fourth is the completion of the -- what
2 we're affectionately calling the Board Member 101
3 document, which is essentially the orientation and
4 overview for the new Board members that Bea and Rigo
5 have been working on.

6 Fifth, the new item that got assigned to
7 us this morning was the review of potential separation
8 of mineral source supplements from ag source
9 supplements, and going through some of those materials
10 and seeing how we might move forward.

11 And then, six is just an analysis of the
12 issues relating to the remediation of the court order
13 based upon the document that NOP provided us is how we
14 might feed back then on NOSB and the collaboration and
15 in working forward to address those issues.

16 And then, the final thing we have on the
17 work plan is the Policy Committee is in charge of
18 planning the graduation party for the class of 2006.

19 (Laughter.)

20 Which class has gotten through without any
21 drop-outs or any flunk-outs. We've gone through
22 intact, so --

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1 CHAIRPERSON RIDDLE: Was that the highest
2 priority?

3 (Laughter.)

4 Any questions, comments, members of the
5 Board first? And I do have -- I would just like to
6 have a little bit more discussion about this input on
7 the court ruling. When Barbara spoke with us on
8 Monday, the Board was invited to provide our ideas and
9 input, and that needs to happen in a timely manner to
10 have any, you know, value to the program is my
11 understanding.

12 And so I have spoken with Bea about this,
13 and Bea has offered to serve as kind of a
14 clearinghouse to help consolidate ideas from Board
15 members.

16 And then, so I ask that all Board members
17 submit your ideas on all or any part of the court
18 ruling and how the rule can be changed to come into
19 compliance, and then Bea and I will work together to
20 construct a letter to the Secretary essentially, as
21 this will not be, you know, a Board recommendation
22 that waits for the next meeting, but rather a letter

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1 from the Chair on behalf of the Board.

2 So once Bea and I have a draft, then it
3 will be circulated for your sign-on, your concurrence
4 with that. So that's the plan.

5 Bea, do you have --

6 MS. JAMES: Well, are we looking for a
7 particular date to try to have all the information?
8 Because it will take a while to make that into a --

9 CHAIRPERSON RIDDLE: Right.

10 MS. JAMES: -- a presentable letter.

11 CHAIRPERSON RIDDLE: Yes. And we didn't
12 talk about that. You know, if members have -- what is
13 reasonable? I mean, a month is reasonable, but two
14 weeks is ideal.

15 Andrea?

16 MS. CAROE: I'm a little bit unclear on
17 what we are doing. I mean, I saw our role with this
18 court order remediation to be one of in collaboration
19 assisting the program with implementing necessary
20 changes. I didn't see our role as determining what
21 the remediation changes are, so I -- I'm not quite
22 sure what this clearinghouse is. This is the first

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1 I've heard of it.

2 And what kind of letter we're sending to
3 the Secretary, I'm very concerned about -- about this
4 action. It doesn't seem appropriate to me for this
5 Board.

6 CHAIRPERSON RIDDLE: We were invited to
7 provide our ideas.

8 MS. CAROE: To the Secretary or to the
9 program?

10 CHAIRPERSON RIDDLE: Well, I use those
11 interchangeably. The Secretary is the program, or the
12 program -- I mean, to the program but, I mean, it's --
13 yes, it's to the program.

14 MS. CAROE: To the program. That's -- I
15 think that's more --

16 CHAIRPERSON RIDDLE: Right. I mean, we
17 exist to provide advice to the Secretary under
18 statute, but it is the program in reality.

19 MS. CAROE: Well, it --

20 CHAIRPERSON RIDDLE: At any rate, we were
21 invited to provide our ideas up front, and then once
22 the proposed -- and then, there will be a time period

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1 where we're not engaged, where the rule-writing is
2 occurring --

3 MS. CAROE: Right.

4 CHAIRPERSON RIDDLE: -- and then, once the
5 proposed rule comes out, then we would provide advice,
6 or I may not be on the Board by that time, who knows,
7 but, you know, the Board would provide a response as a
8 commenter to the proposed rule. But we were invited
9 to provide input, ideas, and to be considered.

10 MS. CAROE: Okay. Well, this seems like
11 duplicative of what Dave has just presented on the
12 Policy Committee as doing, and that's opening that
13 dialogue.

14 MR. CARTER: I think this is in -- in
15 accordance with the Policy Committee. I mean, just a
16 member of the Policy Committee, Bea is going to serve
17 as the primary person on the Policy Committee to
18 coordinate that material. We will continue to run
19 that through the Policy Committee.

20 CHAIRPERSON RIDDLE: Right, yes. That was
21 just --

22 MS. KOENIG: I guess I just had a question

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1 on the process. So we'll all -- will the -- will they
2 be discussed -- like the different ideas, is it just a
3 long list of some of our potential solutions, or are
4 they actually going to be judged and weighed by the
5 entire Board, and then -- which is very different.

6 I mean, I don't mind -- instead of
7 individually going in with our ideas, if we want to
8 compile all our ideas and saying this was not voted
9 on, these are just our ideas, that's very different
10 than -- because I don't think we have the time and
11 really the process to do that in a recommendation.

12 CHAIRPERSON RIDDLE: Right. I agree. And
13 that would be a collection of ideas.

14 MS. KOENIG: Okay.

15 CHAIRPERSON RIDDLE: And I think that
16 could be the most valuable to the program. There may
17 be some things, you know, that we come up with that
18 have no value. There may be some new ideas that --

19 MS. JAMES: I think the input is to help
20 the NOP. I mean, it's ideas and feedback and thoughts
21 and that -- that revolve around this particular issue
22 that we will present to them to help them make sure

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1 that they've looked at all different kinds of
2 possibilities.

3 CHAIRPERSON RIDDLE: And as much as we
4 can, you know, pros and cons, potential impacts as
5 well, and that's what Barbara was saying.

6 MS. JAMES: It's not necessarily taking a
7 position on anything.

8 CHAIRPERSON RIDDLE: Right.

9 MS. KOENIG: What I would just suggest is
10 that, then, if somebody -- you know, of course, if
11 people don't have time, they can just come up with an
12 idea. If somebody wants to go in individually and
13 give the pros and cons, I just don't want to see some
14 analysis of individual ideas. I don't think that's
15 our role.

16 You know, if you personally want to do an
17 analysis, that's fine. But what I'm saying is I don't
18 want the committee to take all of our ideas and then
19 do some microanalysis and say --

20 CHAIRPERSON RIDDLE: No. I think we're
21 all --

22 MS. KOENIG: That's fine.

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1 CHAIRPERSON RIDDLE: -- on the same page.

2 MS. KOENIG: Okay.

3 CHAIRPERSON RIDDLE: If you submit an
4 idea, and you look at it from both sides, pros and
5 cons, great.

6 MS. KOENIG: Okay.

7 CHAIRPERSON RIDDLE: We'll see what we
8 get. But as far as your timeline, what should we say?
9 Would you like to suggest something?

10 MS. JAMES: I think if -- I think if the
11 committee has a month to do that, and to get that back
12 to me, and then I'll try to construct it and send that
13 to you. And I don't think that we should submit
14 anything without the whole Board getting a chance to
15 look at it also.

16 CHAIRPERSON RIDDLE: Yes, definitely. So
17 a month being for members to submit something to you?

18 MS. JAMES: Yes. Yes.

19 CHAIRPERSON RIDDLE: Okay. And then,
20 we'll try and turn it around in a week's time
21 hopefully, but whatever -- you know, within two weeks.
22 Let's set ourselves two weeks --

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1 MS. JAMES: Within two weeks.

2 CHAIRPERSON RIDDLE: -- after that, and
3 then it will be circulated to the Board, and at that
4 time I'll set a deadline for you to respond, and once
5 we have something out to you. It'll probably be about
6 a week at that stage. So it's going to keep getting
7 narrower.

8 Okay. Thanks. I'm glad we had that
9 discussion.

10 All right. Nancy, are you ready for
11 Crops?

12 MS. OSTIGUY: We are going to be revising
13 the compost and compost tea recommendations based upon
14 the input that we've been getting, write Q&As for
15 compost and compost tea to accompany that
16 recommendation, then sunset review with the materials
17 that we are going to need to be looking at, and then
18 the three that have come up in -- during the meeting
19 for streptomycin and tetracycline.

20 Contaminants in fertilizer, so try to
21 delineate the issue so that we can begin to get to a
22 point where we may have a recommendation.

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1 CHAIRPERSON RIDDLE: I'm sorry. Could you
2 repeat that?

3 MS. OSTIGUY: Contaminants in fertilizers.
4 Then, because we have continued to get comments on
5 the commercial availability of organic seeds, to look
6 at those to assess what the impact is going to be on
7 -- you know, to look at that and assess the impacts
8 based upon the input that we have received.

9 There may be things that we didn't
10 recognize is what I'm -- I'm not saying we're
11 necessarily going to revisit it, but to make sure that
12 we have taken into account public comment and see if
13 what we view -- what we view that impact might be, if
14 it's something that we might need to address or not.

15 CHAIRPERSON RIDDLE: Okay. So even though
16 the Board adopted it -- I just want to be clear -- are
17 you suggesting we hold that at committee before
18 submitting it to the program, or --

19 MS. OSTIGUY: No. I'm not even saying
20 that there's necessarily anything to change.

21 CHAIRPERSON RIDDLE: Yes.

22 MS. OSTIGUY: But I don't think we should

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1 ignore the public comment that has come in.

2 CHAIRPERSON RIDDLE: No, no.

3 MS. OSTIGUY: That is -- really, it's to
4 look at that public comment to see whether or not
5 those items are potentially going to be problematic.

6 CHAIRPERSON RIDDLE: Okay. And is that
7 something that can happen along with a recommendation
8 when we submit it to the program?

9 MS. OSTIGUY: Sure. Sure.

10 CHAIRPERSON RIDDLE: So that they have a
11 little analysis of those comments and how it relates.
12 Okay. Thanks. Anything else?

13 MS. OSTIGUY: The goal is not to hold back
14 that.

15 CHAIRPERSON RIDDLE: Okay.

16 MS. OSTIGUY: No, that's -- let's see.
17 Obviously, all the decision sheets need to be done at
18 some point or another. It's on our agenda. I don't
19 believe it will be done by the next meeting, or the
20 materials -- soy protein isolate and ammonia
21 bicarbonate -- no, we did finish synthetic, didn't we?
22 No.

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1 CHAIRPERSON RIDDLE: The synthetic/non-
2 synthetic, yes.

3 MS. OSTIGUY: Okay.

4 CHAIRPERSON RIDDLE: The recommendation,
5 and then you have --

6 MS. OSTIGUY: Now we can do -- yes, so
7 we'll be looking at the two materials -- soy protein
8 isolate and ammonia bicarbonate -- to bring those up
9 to -- for Board recommendation. Well, we have the
10 recommendation.

11 And then, last but not least,
12 hydroponics, the guidance document.

13 CHAIRPERSON RIDDLE: No. No, it's
14 continued on the work plan. There was some early
15 drafting, and it has never been --

16 MS. OSTIGUY: It has never gotten
17 anywhere.

18 CHAIRPERSON RIDDLE: -- never moved
19 forward. Any comments, questions, for Nancy?

20 Okay. Andrea, are you ready?

21 MS. CAROE: Yes.

22 CHAIRPERSON RIDDLE: Okay.

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1 MS. CAROE: We will submit the retailer
2 Q&A. That passed without changes, so it's just going
3 to put in the Board vote on that.

4 We will also submit the NOP -- the
5 response to the NOP response to the ANSI report
6 document, with the changes that were noted during the
7 meeting. We'll further work on the peer review panel
8 recommendation, again implementing or including as
9 much of the public comment as seems warranted. And
10 also, working in collaboration a little bit further
11 with the program to make sure that that document is
12 sound and has some -- some legs to move with.

13 And then, the last thing is kind of an
14 open-ended thing, and I ask for some flexibility in
15 the committee. Since we were told at this meeting
16 that as those ANSI response items are being generated,
17 they will be run through this committee, I want to
18 keep the plate somewhere clear so that we can respond
19 to those quickly.

20 So I've kind of got an open item that I
21 can't really detail at this time, but that's it for
22 this committee.

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1 CHAIRPERSON RIDDLE: Okay. Sounds good.
2 Any questions, comments?

3 All right. Livestock? Michael, you are
4 prepared to take over as Chair and give the report
5 here, correct?

6 MR. LACY: I am totally unprepared to take
7 over as Chair.

8 CHAIRPERSON RIDDLE: But you are prepared
9 to give the report.

10 MR. LACY: Maybe.

11 (Laughter.)

12 George and I are transitioning the Chair
13 responsibilities, and I do want to thank George on
14 behalf of the Livestock Committee for the dedicated
15 leadership he has provided to the Livestock Committee.
16 We really do appreciate it, George.

17 I have only half-jokingly told him that
18 George Pierce will have to come to work for me for the
19 next --

20 PARTICIPANT: Jim Pierce.

21 MR. LACY: -- Jim Pierce, excuse me, will
22 have to come to work for me for the next year, and

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1 George has agreed to that.

2 (Laughter.)

3 We obviously have some work to continue to
4 do on the pasture requirement, and we will work
5 expeditiously with NOP to develop the clear rationale
6 for the proposed rule change and guidance. In defense
7 of NOP, the Livestock Committee, and I think the NOSB
8 Board, we do appreciate the NOP being cautious on
9 this.

10 We do understand that we need to get this
11 right, and we appreciate their help in making sure
12 that we do get it right.

13 We will continue to work with Nancy on
14 development of standards for organic honey. On the
15 materials side, we have work to do on the ivermectin
16 and moxidectin issues, and we'll look at any other
17 materials that need to be examined in regard to the
18 sunset.

19 We'll continue to work with NOP on the
20 impact of the court ruling and how that impacts
21 livestock. We'll continue to monitor the avian
22 influenza situation and how that might impact the

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1 organic poultry sector.

2 We would like to -- we feel like we've got
3 to be proactive on this serious issue. Nancy and I
4 will work on a statement of how the organic poultry --
5 or how organic poultry production should respond to
6 this animal and human health threat.

7 Aquaculture issue remains on our plate.
8 We'll monitor and assist the working groups, as
9 appropriate. And as I mentioned, George and I are
10 trying to work together to make sure nothing drops
11 through the crack during the transition. But please
12 let me know if there is anything that you think the
13 Livestock Committee needs to address.

14 CHAIRPERSON RIDDLE: No, pet food is under
15 Handling. But there is the aquaculture task -- or the
16 aquatic species task force. Yes, you mentioned that.

17 And Kevin did mention pet food, right?

18 VICE CHAIRPERSON O'RELL: Right, yes.

19 CHAIRPERSON RIDDLE: We've got them all
20 covered.

21 Yes, Andrea?

22 MS. CAROE: Just a question for you,

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1 Michael. I mean, I believe, George, you've been on
2 the task force, listening in on the task force.

3 MR. SIEMON: Unfortunately, I missed the
4 first two calls, but I'm going to try to be on the
5 third one.

6 MS. CAROE: Okay. Well, I have been on
7 it, but is that something that's going to transition
8 over to Michael as well? Or are you going to --

9 MR. SIEMON: We hadn't talked about that.
10 I had hoped to keep doing that, but we haven't talked
11 about that, so --

12 MS. CAROE: Okay.

13 MR. SIEMON: But since I missed the first
14 two calls, I'm off to a rough start here, I must
15 admit.

16 MS. OSTIGUY: I'm on that -- are you
17 talking about the --

18 MS. CAROE: I know you're on it as well,
19 but I -- I thought George was, and I didn't know if
20 that was -- okay.

21 CHAIRPERSON RIDDLE: So, yes, we
22 definitely have -- still have someone from Livestock

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1 on there, too.

2 Okay. Is there any committee I missed?

3 MS. KOENIG: Me.

4 CHAIRPERSON RIDDLE: I'm so sorry.
5 Materials.

6 (Laughter.)

7 I don't know how that could happen.

8 MS. KOENIG: Well, actually, you know,
9 other than sunset, you know, I'm happy to say that
10 there's not that much going on. Yes, that is good.

11 No, but the big thing is in the short
12 term, and it sounds like the committees are aware of
13 it, that there are some materials that have come up
14 during this meeting that we need to consider if we
15 want to request a TAP on.

16 And with that, although you guys have
17 provided a request for a TAP, what I need specifically
18 is if you really mean a full TAP, or do you have
19 specific questions, because as Arthur tries to deal
20 with the contractor -- and we've got a lot of
21 materials -- if there's only things that you have like
22 a specific question on, maybe like the -- these anti

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1 -- you know, antibiotics, and you specifically want
2 them to go in depth on whether they're not -- you
3 know, some of that information on the ivermectin or
4 those kinds of things, because we do have some that
5 have sufficient information.

6 So that's up to the committees, just
7 provide either the -- saying you want a full TAP, or
8 we don't need a full TAP, we need specifically these
9 areas. So that's -- or, for example, if there's
10 alternatives, and you want them to concentrate on
11 alternatives, let us know.

12 And then, when it comes to the national
13 sunset process, I want to get hard copies of all of
14 the comments from Arthur. He's going to mail them to
15 me, and then he will mail them to each of the
16 department chairs. And I hope to help, you know, get
17 on your tails and send e-mails and find out -- kind
18 of record-keep to make sure things are on task.

19 So it's not that I'm going to be a pest,
20 but I am going to be a pest.

21 CHAIRPERSON RIDDLE: Good.

22 MS. KOENIG: So, you know, and that's all

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1 I see myself as being an annoyance in the next few
2 months.

3 (Laughter.)

4 If I'm not enough of an annoyance, I'll
5 call my committee members, and they can start being an
6 annoyance to other people, too. Other than that, we
7 do -- we have sent two important documents to the NOP,
8 hopefully for concurrence.

9 So I'll just be in contact with them if
10 they have any questions or just to try to get an idea
11 of where their -- you know, if we're getting
12 concurrence on our procedures as far as the
13 synthetic/non-synthetic and the legal aspects of that
14 reorganization of the national list.

15 CHAIRPERSON RIDDLE: And, Rose, I think it
16 was yesterday you mentioned a form for committees to
17 use.

18 MS. KOENIG: Yes. Well, I'll send what we
19 have, the process that we have outlined. And it
20 wasn't a -- it was kind of a generalized form. So
21 I'll take a look at that, and I'll send it to the
22 committees. If they feel that that's not useable --

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1 as far as -- if we have technical reviews -- if we're
2 basing them on actual TAPs, other than comments, you
3 certainly can fill out our TAP process, our materials
4 process, you know, using those sheets.

5 CHAIRPERSON RIDDLE: The evaluation forms
6 that --

7 MS. KOENIG: On the evaluation forms
8 for --

9 CHAIRPERSON RIDDLE: For each substance.
10 You know, we need to just be clear what you need from
11 us.

12 MS. KOENIG: The way -- could I just say
13 the way I'm understanding it is on things that either
14 the public has determined that it needs to be reviewed
15 fully, you know, things that have been pinpointed by
16 public comment, or things that we have, we will
17 request a TAP -- a formal technical paper on that.
18 and I would like you to fill out the same forms as if
19 you're looking at a new material.

20 For those substances that the committee
21 looks at, where you haven't -- where you have only
22 received positive comment, I would like you to review

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1 -- Arthur says there's archives now on the website of
2 every -- all of the materials and information they
3 have on the materials. It's maybe not complete, so
4 each committee should go in and review the technical
5 information that's available.

6 And certainly fill out the forms that we
7 requested -- the descriptive information that we
8 presented at the last meeting. And I guess we're
9 going to have to determine on -- you know, it would be
10 a lot of -- a lot of work we have to do, forms on
11 every single material. But Arthur --

12 CHAIRPERSON RIDDLE: Arthur?

13 MR. NEAL: It will be very difficult for
14 you to take -- we've placed the TAPs that were done in
15 '95 through, what, '97 on the website, and it would be
16 very difficult for you to fill out the evaluation
17 forms with that information.

18 That's one of the reasons why sunset was
19 set up with public comment in play -- to express the
20 continued need for the substance. There's not much
21 question concerning the use of the substance. Then,
22 obviously, there's not a great concern about it.

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1 Now, for those that people have expressed
2 a concern for, to take it off, we don't want it
3 anymore, those may be the ones that you -- you have
4 time to really evaluate in depth, because for you to
5 fill out evaluation forms for over 160 plus materials
6 would take you from now until next year.

7 MS. KOENIG: So that was why the -- the
8 forms that we set up for the review process were based
9 on kind of a descriptive evaluation, and a description
10 of the comments that come in, to justify those that
11 would be simple.

12 CHAIRPERSON RIDDLE: Can I ask you, Rose,
13 to work with Arthur just to make sure you've got a
14 tool that's useable to committees and meets their
15 needs before it's distributed?

16 MS. KOENIG: Okay. Well, we approved it,
17 so we'll go over and look at it.

18 CHAIRPERSON RIDDLE: I understand we
19 approved kind of the content of it, but if it could be
20 in something really useable for committees to make it
21 painless, but yet it's thorough.

22 CHAIRPERSON RIDDLE: Okay.

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1 MR. NEAL: One of the things that I want
2 to comment on, I'd like for the committee chairs to
3 submit those substances for Rose to send to us for
4 additional clarification, that you really work with
5 her to pinpoint the questions that you want addressed
6 by contractors, because we're going to try to go to
7 them this week or mid next week with those requests,
8 because we don't want to waste time. Time is valuable
9 now.

10 And they are already aware that they are
11 going to be receiving them, but we need to give them
12 clear instructions on what we want them to do with
13 those substances. Particularly, we've got flavors and
14 you've got --

15 MS. KOENIG: Colors.

16 MR. NEAL: -- and what we want them to
17 look at, do we want them to look at manufacturing
18 process, availability, because some things they may
19 not be able to address. So we need to be kind of
20 clear on what we -- what we want from them.

21 VICE CHAIRPERSON O'RELL: We're going to
22 want a pretty full review on those items, because we

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1 haven't had any TAPs in the past. So, but we can --
2 we can put together a list of some ideas and direction
3 for that.

4 MR. NEAL: Please do, because
5 manufacturing process is going to be important.

6 CHAIRPERSON RIDDLE: Okay. Any other
7 questions, comments?

8 MS. KOENIG: The only other comment is
9 when the chairpersons get your comments, if the first
10 -- your first committee meeting when you compile kind
11 of the information, if you could -- if there are
12 things where you're getting "we need a review, we need
13 a review, we need a review," those quickly again -- I
14 mean, because this first set of requests are those
15 that we've requested based on our own knowledge. The
16 second set of requests for any kind of technical
17 review is going to come from public comment.

18 But, again, as Arthur says, we need to get
19 that as soon as possible. Once you guys determine
20 that, then you can set up other committee meetings to
21 go through the ones where you -- where you have not
22 received any negative "pull off the list" comments.

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1 CHAIRPERSON RIDDLE: Yes. Gerry?

2 MR. DAVIS: The materials that Arthur was
3 referring to that we need to get our comments to him
4 next week, obviously those aren't -- that's the ones
5 we've already pre-identified that he's referring to.

6 MS. KOENIG: Those, plus we may have
7 additional ones that, like Nancy mentioned, and
8 generated from public comment today or during this
9 meeting --

10 MR. DAVIS: But not what has come in.

11 MS. KOENIG: Yes.

12 MR. DAVIS: We don't get that in time to
13 fulfill --

14 MS. KOENIG: Well, that's what I'm saying.
15 That's what -- that's the next set. And as soon as
16 the chairpersons get hard copies -- and I'll try the
17 best I can to kind of go through them and help you
18 guys along, but that's the next immediate group that
19 we need to know about.

20 VICE CHAIRPERSON O'RELL: Or when you
21 start looking at them on the website to see if there
22 are any, because I don't --

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1 MS. KOENIG: Chairs will get hard copies
2 of all --

3 VICE CHAIRPERSON O'RELL: What's the time
4 table for us getting hard copies?

5 MS. KOENIG: Like this week is --

6 MR. NEAL: We'll try to mail those out to
7 you, if not the end of this week, the beginning of
8 next week, because I've been here, so I'm sure that
9 there are more comments that's been coming in.

10 VICE CHAIRPERSON O'RELL: Okay. good.

11 CHAIRPERSON RIDDLE: Okay. Everyone clear
12 on that? All right. Thanks, Rose.

13 As Board Chair, I have a few things to
14 report as far as work plan type items as well. And
15 that is coming out of this meeting, I do need to
16 submit the final recommendations from this meeting.

17 So before I can do that, I need the
18 committee chairs to funnel those in to me, and then I
19 need to review those and then complete that cover
20 sheet that has now been created and sign off on that.

21 So I do need your timely cooperation, assistance, to
22 get that done.

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1 And then, I would like to, as I did after
2 the last meeting, write a brief report of the meeting
3 in a letter to the Secretary that just itemizes what
4 we -- what we accomplished at this meeting and then
5 also summarizes some of our future work plan items,
6 just to keep it -- the attention there, that we are
7 fulfilling our mandate under OFPA. So just to let you
8 know that.

9 And then, there's one other item that we
10 haven't discussed, and that is the role of the Board
11 in the review of applicants for the Executive Director
12 position. And Barbara and I I think really need to
13 talk and come up with a plan for how we will be
14 engaged in that.

15 You know, the last we know, the job
16 description has gone to the Personnel Division, but it
17 hasn't come back out yet. So we haven't seen the
18 final job description, but we do need to have a plan
19 and kind of form a subcommittee, kind of a personnel
20 subcommittee I think, to be directly engaged in that
21 process.

22 So I'll just need to work with Barbara and

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1 come up with that, and then report on that at the next
2 Executive Committee meeting.

3 So those were my three items that I wanted
4 to mention. Any questions for me? Gerry?

5 MR. DAVIS: The subcommittee you
6 mentioned, would you envision that be some outgoing
7 Board members and some new?

8 CHAIRPERSON RIDDLE: Yes, definitely. But
9 not the full executive -- I would imagine three people
10 probably. You don't want to get it too big. So I
11 guess, once again, if you're interested in that,
12 please let me know to begin with.

13 Yes, Nancy. I don't mean right now,
14 but --

15 MS. OSTIGUY: My proximity to D.C. makes
16 that a possibility, that I could help out on that.

17 CHAIRPERSON RIDDLE: Okay. Thanks.

18 Okay. Now, the next item on our agenda is
19 to talk about our next meeting date. And let's --
20 where that stands, does someone from the program have
21 some information for us?

22 MR. NEAL: That rests with Barbara. But

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1 the potential dates I think you all know is that week
2 before Thanksgiving, the 14th through the 17th. Those
3 are the dates. Barbara, I think she said on Monday,
4 would let you know whether or not it's going to
5 happen.

6 CHAIRPERSON RIDDLE: Right. Yes, she said
7 by the end of the week, and I didn't know if she meant
8 by the week ending on Wednesday or Friday.

9 MR. NEAL: I don't --

10 CHAIRPERSON RIDDLE: I was hoping that we
11 would have something by the end of this meeting.

12 MR. NEAL: I don't have the information.

13 MS. CAUGHLAN: Barbara left?

14 MR. NEAL: She's not in the room. She's
15 still in the hotel.

16 MS. JAMES: She had originally said the
17 14th/15th or 21st/22nd.

18 MR. NEAL: It's just the week of the 14th.

19 MS. CAUGHLAN: So it's maybe better.

20 PARTICIPANT: It's worse for me.

21 VICE CHAIRPERSON O'RELL: I won't be
22 there.

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1 PARTICIPANT: I'm going to be out of the
2 country.

3 MR. SIEMON: Which days?

4 CHAIRPERSON RIDDLE: The 21st -- or
5 20th/21st sounds bad for Kevin and Dave right away.
6 And I really -- we aren't going to decide this. I
7 really don't want to engage much time.

8 MR. SIEMON: I'm sorry. But we have put
9 away three days, haven't we?

10 CHAIRPERSON RIDDLE: Yes. In pencil on
11 your calendar, the 14th through 17th, with the primary
12 focus being the sunset review, and then election of
13 officers. Those are two things that really have to
14 happen, unless you want me to be Chair for life.

15 PARTICIPANT: Sure.

16 MR. NEAL: And we just -- and what she has
17 conveyed, that there would be a two-day meeting, no
18 more than a two-day meeting. So, but those are the
19 range --

20 CHAIRPERSON RIDDLE: Yes, the range.
21 Thanks. Yes, so it could be the 15th through 17th or
22 14th -- or 14th and 15th, 15th -- yes, it could be --

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1 two days within that range. All right.

2 Okay. I guess that's all we can decide on
3 that. And I do have some closing remarks. I see the
4 agenda has me down for a half hour.

5 (Laughter.)

6 I will be brief, but I do have some
7 substantive remarks. I'd appreciate your continued
8 patience and attention.

9 Well, first, I would just like to thank
10 the USDA in general for the opportunity to serve, to
11 provide advice and to serve. But in specific, I'd
12 like to thank the staff, you know, for the work it
13 takes to organize the meeting. And regardless of
14 where the meeting is held, it's never perfect for
15 everyone, and you're always going to receive some
16 criticism.

17 But I want you to also receive appropriate
18 thanks and acknowledgement for the work, not just in
19 the logistics of the hotel, but all the copies, all
20 the posting, all the assistance and the engagement, so
21 that we can function as a Board.

22 And I also, as I said earlier in response

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1 to one of the commenters, am very encouraged by what I
2 see is a manifestation of collaboration occurring.
3 And in particular, the precedent of the line-by-line
4 responses to the past meetings' recommendations I
5 think that is very healthy, and for us to know where
6 you stand on our recommendations.

7 And we do provide advice. We love it when
8 that advice is taken. But there are times when it
9 does need further work, and we appreciate having
10 things sent back to us. And there might come a time
11 when our advice is rejected, but we like to know if
12 that's the case, too. But hopefully, if we're working
13 together, we won't reach that point in the future, or
14 the Board won't reach that in the future.

15 And I think this climate of engagement and
16 collaboration is really critical for the rule changes
17 that we face, in response to the court ruling but also
18 some of these other significant issues on the table.

19 I do remain baffled and concerned by some
20 of the positions that were taken yesterday in the
21 discussion on the synthetics and substances not
22 appearing on the list being allowed for use, the whole

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1 A plus B plus C equals Q. I do question the legal
2 basis for that interpretation in OFPA, especially in
3 light of the court ruling. So I do have ongoing
4 concerns about that equation.

5 I'd like to acknowledge some of my own
6 shortcomings here in this meeting -- not looking to
7 the left often enough. I rarely --

8 (Laughter.)

9 But I also, more importantly than that, is
10 I did err in not asking for any interests on topics
11 before they came up for discussion. And this isn't
12 just a materials issue, but other topics as well. And
13 I have reviewed the actions that we've taken at this
14 meeting, and from what I know of Board members'
15 interests, I find no interests that deserve recusal in
16 any of the actions that we have taken at this meeting.

17 If you have any to correct, you know,
18 please do so. But that's my analysis of the actions
19 taken at this meeting.

20 I'd like to thank all of you, and there
21 are still quite a few of you out there, who have come
22 to this meeting. The room was packed to start the

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1 public comment on Monday. People said holding an NOSB
2 meeting in D.C. in the middle of August, who would
3 come?

4 Well, people did, and that just shows me,
5 once again, what an engaged community it is, and the
6 importance of your continued involvement and in put.
7 It's just so valuable to us, and I think you see that
8 in the comments and questions after each of you have
9 submitted your comments. They are taken very
10 seriously, and empower and inform us to do a good job.

11 I am pleased by the progress of the two
12 task forces that we have going on right now. I think
13 they are making serious deliberations and considering
14 different angles on both the aquaculture and pet food
15 issues, and I think we'll have some valuable reports
16 coming out of that process.

17 I really am pleased with the new members,
18 how engaged you all have been. It's like you've been
19 here, you know, longer than just one meeting now. So
20 you definitely have lost any shyness and are fully
21 engaged. So I appreciate that and really also want to
22 thank all the veteran members for your continued

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1 leadership and vision, commitment to this process.
2 It's a tremendous amount of work.

3 Oh, I did have a comment about the whole
4 notion of any life form being seen as agricultural. I
5 -- that certainly is not consistent with the history
6 of organic regulations, in this country or
7 internationally. And I look at, where do you draw the
8 line? And organic is about drawing the line when it
9 comes to regulations.

10 You know, three years is no magical
11 number, but we draw a line in the sand to qualify for
12 transition of land. We do need to draw lines on this
13 definition eventually, one way or another, and there
14 may be some winners and losers, some people who
15 disagree with that final outcome. But I look, you
16 know, at earthworms, can we raise organic earthworms.

17 Well, what about nematodes? What about amoebas? I
18 mean, what about viruses?

19 And are prions life forms or not? I mean,
20 we do need a line, and it can't just be all life forms
21 qualify. And maybe we need to look in the, you know,
22 Oxford or Webster Dictionary at agriculture, or look

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1 at the Latin roots, and not just taxonomy, to help
2 clarify this situation.

3 I encourage the Board as we move forward,
4 as much as we can, to prioritize and keep a narrow
5 focus. I think whenever we do we accomplish things
6 well. When we get too scattered, it confuses the
7 public and isn't helpful for the program.

8 I just have tremendous respect and awe for
9 this process, and just the engagement of this Board
10 and the members of the public, and it's just an honor
11 to be a part of it.

12 So I would entertain a motion to adjourn.

13 VICE CHAIRPERSON O'RELL: So moved.

14 MS. OSTIGUY: Second.

15 CHAIRPERSON RIDDLE: Kevin moved to
16 adjourn. Nancy seconds. All in favor, say aye.

17 (Chorus of ayes.)

18 Those opposed?

19 (No response.)

20 Thank you very much.

21 (Whereupon, at 11:14 a.m., the proceedings
22 in the foregoing matter were adjourned.)

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